

MONEY TRUST INVESTIGATION

INVESTIGATION

OF

FINANCIAL AND MONETARY CONDITIONS IN THE UNITED STATES

UNDER

HOUSE RESOLUTIONS NOS 429 AND 504

BEFORE A

**SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY**

PART 19

**WASHINGTON
GOVERNMENT PRINTING OFFICE**

1913

SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY.

HOUSE OF REPRESENTATIVES.

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MONEY TRUST INVESTIGATION.

SUBCOMMITTEE OF THE
COMMITTEE ON BANKING AND CURRENCY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Wednesday, January 8, 1913

The subcommittee met at 11 o'clock a. m.

Present: Messrs. Pujo (chairman), Stephens, Daugherty, Neeley, Hayes, and Heald.

Present also: Samuel Untermyer, Esq., of New York City, counsel for the committee, and G. Carroll Todd, Esq., assistant counsel for the committee.

The CHAIRMAN. The committee will come to order, and we will resume the taking of testimony.

Mr. UNTERMYER. Before calling the next witness, Mr. Chairman, I want to read into the record certain correspondence between counsel for the committee, the Comptroller of the Currency, the Attorney General, and the President, bearing upon certain data which the committee required for the purposes of this inquiry.

The first letter to which I desire to call the attention of the committee is as follows:

EXHIBIT No. 169, JANUARY 8, 1913.

SEPTEMBER 6, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.

DEAR SIR: Mr. Edgar H. Farrar, of New Orleans, and myself are, as you know, acting as counsel for the Committee on Banking and Currency of the House of Representatives in the so-called pending "Money Trust" investigation under House resolution No. 504, with which you are doubtless familiar. In this connection, I beg to call your attention to the following, from paragraph fifth of that resolution:

"The Comptroller of the Corrency, the Secretary of the Treasury, and the Commissioner of the Bureau of Corporations, and their respective assistants and subordinates, are hereby respectively directed to comply with all directions of the committee for assistance in its labors, to place at the service of the committee all the data and records of their respective departments, to procure for the committee from time to time such information as is subject to their control or inspection, and to allow the use of their assistants for the making of such investigations with respect to corporations under their respective jurisdictions as the committee or any subcommittee may from time to time request."

We are now preparing to resume the taking of testimony, and in that connection the committee will require a vast amount of confidential data from the books of certain of the national banks which we are hoping to have you assist us in securing. Are you likely to be in New York any day during the early part of next week, and if so, can Mr. Farrar and I make an engagement for you to meet us here for the discussion of this subject?

Kindly advise me as soon as possible.

Very truly, yours,

SAML. UNTERMYER.

On the 11th of September I had a letter addressed to myself, reading as follows:

EXHIBIT No. 170, JANUARY 8, 1913.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
Washington, September 11, 1912.

SAML. UNTERMYER, Esq.,
37 Wall Street, New York City, N. Y.

MY DEAR SIR: Receipt is acknowledged of your letter of September 6.

Mr. Murray is out of the city, but advises me that he expects to be in New York during the week of September 19.

Yours, very truly,

O. A. CARLSON,
Secretary to the Comptroller.

EXHIBIT No. 171, JANUARY 8, 1913.

SEPTEMBER 13, 1912.

O. A. CARLSON, Esq.,
Secretary to the Comptroller, Treasury Department, Washington, D. C.

DEAR SIR: Referring to your yesterday's letter perhaps you will be good enough to again communicate with Mr. Murray and ask him to fix an appointment to meet me in New York during his visit next week. I am very anxious to see him in connection with the affairs of the Pujo committee.

Very truly, yours,

SAML. UNTERMYER.

Not having received any reply, on the 17th of September the following night letter was sent by counsel for the committee to Mr. Murray:

EXHIBIT No. 172, JANUARY 8, 1913.

SEPTEMBER 17, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.:

Am still awaiting definite advices from you as to what day this week you can see Mr. Farrar and myself here respecting money-trust inquiry. Kindly wire.

SAMUEL UNTERMYER.

On September 24 a letter from the counsel for the committee was addressed to the President, as follows:

EXHIBIT No. 173, JANUARY 8, 1913.

SEPTEMBER 24, 1912.

HIS EXCELLENCY HON. WILLIAM H. TAFT,
President of the United States, Beverly, Mass.

DEAR SIR: Referring to the interview you were good enough to accord Mr. Farrar and myself yesterday at Washington, and in compliance with your direction that I submit to you in writing the request made of you yesterday and the reasons therefor, I beg to state as follows:

Mr. Farrar and I are acting as counsel for the Committee on Banking and Currency of the House of Representatives under House resolution 504, of which I take the liberty of herewith inclosing a copy and of calling your attention to the following provisions on pages 9 and 10:

"The Comptroller of the Currency, the Secretary of the Treasury, and the Commissioner of the Bureau of Corporations, and their respective assistants and subordinates, are hereby respectively directed to comply with all directions of the committee for assistance in its labors, to place at the service of the committee all the data and records of their respective departments, to procure for the committee from time to time such information as is subject to their control or inspection, and to allow the use of their assistants for the making of such investigations with respect to corporations

under their respective jurisdictions as the committee or any subcommittee may from time to time request."

Under the terms of this resolution we have asked the comptroller to secure certain data for us without which it would be impossible to properly conduct the inquiry or to acquaint the House with the data that it will need as a basis for legislation. In response to this request the comptroller very properly calls our attention to the instructions issued by your predecessor—confirmed by you—to the effect that none of the heads of department shall furnish information to congressional committees or otherwise, except by Executive order. The comptroller accordingly suggests that notwithstanding the peremptory form of the resolution, he is unable to comply with our request without direction from you.

When this investigation was begun the national banks took the position, which they have since maintained, (1) that all visitatorial powers over national banks are vested in the Comptroller of the Currency; (2) that although the banks are the creatures of Congress and the comptroller is its nominee, who reports directly to it and who is responsible to it, neither House of Congress has, nor have both Houses combined, the right to exercise visitatorial powers over the banks for the legitimate purpose of framing legislation, as it is claimed that the information obtained by the comptroller must be treated as confidential as against one or both Houses of Congress or any committee thereof.

The section of the banking law referred to reads as follows:

"SEC. 5241. (Limit of visitatorial powers.) No association shall be subject to any visitatorial powers other than such as are authorized by this title or are vested in the courts of justice. (R. S.)"

It is our contention, (1) that the powers now being exercised by the committee are inquisitorial and not visitatorial; (2) if the power be visitatorial it was not intended by the section in question to deprive Congress or either House of this fundamental power to examine into the affairs of its own creatures in order to determine the necessity for and character of remedial legislation.

The committee introduced a bill at the last session to remove all doubt on this question, which was passed almost unanimously by the House, but is still pending in the Senate. The Senate committee reported the bill adversely by a vote of 7 to 6. It is now upon the calendar awaiting action, but in view of the vast amount of data necessary to be gathered and the preliminary work that is required before further examining witnesses in the inquiry and the early expiration of the present Congress it will be impossible to await action on the pending bill, nor do we believe that to be necessary.

If the banks are right in their contention the Comptroller of the Currency is the only officer of the Government who is immune and whose acts can not be inquired into by the power that created him and the bank. Under that interpretation his office could not be investigated to ascertain whether he had done his duty in the exercise of the visitatorial powers vested in him.

In response to Your Excellency's further suggestion that I outline briefly the need of the information sought to be obtained through the comptroller I beg to state as follows:

The committee desires to secure data showing (1) the character of the transactions in which certain of the leading national banks of the country have been engaging, such as the promotion and underwriting of securities on behalf of syndicates; (2) instances in which they have acted as what are known as "issuing houses" for the sale of securities to the public; (3) transactions by the banks, made directly or indirectly with their officers and with corporations, in which such officers and directors were largely interested; (4) purchases and sales of bonds and shares of stock by the banks, and speculations conducted by them or by corporations that are owned by them.

These are, in a general way, the heads of the topics with respect to which we are seeking data as a basis for the oral examination of witnesses. Our general purpose is to acquaint Congress with the character of the business in which the larger banks are engaging; to point out the public dangers, if any, accompanying the broad powers now possessed by the banks in the use of their funds; and to expose whatever abuses may be found to exist in the present system, with a view of constructive and corrective legislation. The committee purposes, further, to show the inadequacy of the present currency laws, the danger of panics to which they give rise, and the legislation required to correct this situation.

It will be manifestly impossible to improve the present system or to correct defects or abuses without an intimate knowledge of existing practices. The comptroller, in his annual report of December, 1911, to Congress, uses the following language with respect to one of such abuses:

"Dishonest practices by officers of national banks of receiving personal compensation for loans made by the bank is a growing evil and has already reached such proportions as to call for criminal legislation on the subject. In this manner either the bank is defrauded of lawful interest which it would otherwise receive or usurious interest is exacted of a borrower by the corrupt officer. A secret reward to the officers is sometimes a deliberate bribe for obtaining a loan on insufficient security."

The data upon which this statement is founded is part of the information required by the committee to enable it to determine whether and to what extent the recommendation of the comptroller shall be adopted in the form of proposed legislation.

In view of the urgency of the situation may I be pardoned for reminding Your Excellency that at our interview you very kindly promised to secure for the committee immediate action upon this request?

Very respectfully, yours,

SAML. UNTERMYER.

P. S.—Inclosed please find also a separate memorandum on the legal questions involved.

S. U.

MEMORANDUM.

Briefly stated, House resolution 504, after reciting that Congress has under consideration particular bills in relation to the currency, monetary, and national-banking systems, and trade combinations, and setting forth the alleged condition of affairs in those fields, directs the Banking and Currency Committee to make inquiry therein and report the facts to the House as a basis for the consideration of the pending measures or the formulation of others.

The resolution provides:

"The Comptroller of the Currency, the Secretary of the Treasury, and the Commissioner of the Bureau of Corporations, and their respective assistants and subordinates, are hereby respectively directed to comply with all directions of the committee for assistance in its labors, to place at the service of the committee all the data and records of their respective departments, to procure for the committee from time to time such information as is subject to their control or inspection, and to allow the use of their assistants for the making of such investigations with respect to corporations under their respective jurisdictions as the committee or any subcommittee may from time to time request."

The question is whether the officials named, more particularly the Comptroller of the Currency, should furnish the committee information from their offices as directed.

Revised Statutes of the United States, section 324, enacts that "there shall be in the Department of the Treasury a bureau charged with the execution of all laws passed by Congress relating to the issue and regulation of a national currency," the chief officer of which shall be called "the Comptroller of the Currency," who "shall perform his duties under the general direction of the Secretary of the Treasury."

Revised Statutes of the United States, section 333, provides that such comptroller "shall make an annual report to Congress at the commencement of its session, * * *"

It is elementary that either House of Congress, through a committee, may make inquiry into any matter in respect of which it is authorized to legislate or otherwise take action, and in that behalf compel the production of testimony.

Revised Statutes of the United States, section 102, provides: "Every person who, having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any committee of either House of Congress, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, * * *"

The Supreme Court has said of this provision (Re Chapman, 166 U. S., 661):

"We are of opinion that sections 102 and 104 were intended * * * 'more effectually to enforce the attendance of witnesses, on the summons of either House of Congress, and to compel them to discover testimony.'" (Page 667).

"The history of congressional investigations demonstrates the difficulties under which the two Houses have labored, respectively, in compelling unwilling witnesses to disclose facts deemed essential to taking definite action. * * * It (the statute from which Revised Statutes section 102 was taken) was an act necessary and proper for carrying into execution the powers vested in Congress and in each House thereof." (Page 671.)

It is equally clear that the currency and national banking systems and combinations amongst corporations engaged in interstate commerce are subjects within the legislative jurisdiction of the House as one branch of Congress.

It necessarily follows, therefore, that persons and corporations engaged in those fields of activity, upon demand duly made, are under a legal duty to furnish the committee any facts in their possession germane to the inquiry.

For greater reason any official of the executive branch of the Government who has such information, gained as in the case of the comptroller while executing the laws of Congress, is in duty bound, upon request, to furnish it to a committee of the House which is making inquiry into the operation of those laws as a basis for their modification.

How may Congress be accurately advised whether its laws are sufficient and have reached the end desired if either House may not require executive officers charged with the enforcement of such laws to put at its disposal all information obtained by them in the discharge of their duties? How, otherwise, may it know whether the officers themselves are efficient?

It is no answer to say that the present demand comes from only one branch of Congress. Proposed legislation must be considered and passed by both Houses, and each is entitled to be informed independently of the other.

The officers of national banks have excused their refusal to give the committee information requested on the ground that by so doing they would violate a duty to their stockholders, since Revised Statutes, United States, 5241 provides that—

"No association (national bank) shall be subject to any visitatorial powers other than such as are authorized by this title, or are vested in the courts of justice."

This contention is obviously untenable, since it is impossible that Congress intended to exclude either House from obtaining from the primary source information necessary for the intelligent consideration of legislation affecting the financial system. However, the position has been taken and to contest it would mean a long-drawn-out litigation.

For this reason the committee seeks to obtain the desired information through the office of the Comptroller of the Currency. In no possible view can it be contended that he, too, is restricted by Revised Statutes, United States, 5241, for that would lead to the absurd result that Congress had absolutely shut off either House acting alone from the only two authoritative sources of information on which to base any new laws affecting the financial system.

Even though a subordinate officer in the executive department were under no positive legal duty to furnish either House of Congress for its use in legislation information acquired by him in the execution of the laws of Congress, it would seem that the President should direct him to do so in a spirit of comity; since, notwithstanding its separation into three departments, the Government of the United States after all is one government working to a common end.

On the 25th of September the following letter was received, addressed to counsel for the committee:

EXHIBIT No. 174, JANUARY 8, 1913.

BEVERLY, MASS., *September 25, 1912.*

MY DEAR SIR: Permit me to acknowledge the receipt of your letter of the 24th instant, with inclosures, and to say that it will be brought to the attention of the President upon his return to the city.

Sincerely, yours,

T. W. BRAHANY,
Chief Clerk.

MR. SAMUEL UNTERMYER,
37 Wall Street, New York City.

Not having any reply, on October 1 the counsel for the committee wrote the following letter to the chief clerk of the President:

EXHIBIT No. 175, JANUARY 8, 1913.

OCTOBER 1, 1912.

T. W. BRAHANY, Esq., *Chief Clerk*
(Care of Hon. William H. Taft),
Beverly, Mass.

DEAR SIR: Referring to my letter of September 24 to President Taft in compliance with his suggestion, may I inquire what if any action has been taken and how soon we may expect a definite reply?

The data required by the committee for the purpose of conducting the hearings is very considerable and will take some weeks to collect. The committee is anxious to begin its hearings next month, so that there is little time left in which to secure this data, which I trust will be accepted as an apology for my insistence.

Very truly, yours,

SAML. UNTERMYER.

Then follows another letter, undated, from the chief clerk of the President to counsel for the committee, as follows:

EXHIBIT No. 176, JANUARY 8, 1913.

BEVERLY, MASS.

MY DEAR SIR: In reply to your note of October 1, permit me to say that the President has taken up with the Attorney General the request preferred in your letter of September 24. As soon as the question is determined you will be advised promptly.

Sincerely, yours,

T. W. BRAHANY, *Chief Clerk.*

Mr. SAMUEL UNTERMYER,
37 Wall Street, New York City.

Having heard nothing in the meantime, counsel for the committee on the 10th of October wrote to the Attorney General as follows:

EXHIBIT No. 177-178, JANUARY 8, 1913.

OCTOBER 10, 1912.

HON. GEORGE W. WICKERSHAM,
*Attorney General of the United States,
Department of Justice, Washington, D. C.*

DEAR MR. WICKERSHAM: Following my talk with you at the bar association, I received a letter from the chief clerk to President Taft, of which the accompanying is a copy, from which you will note that it is stated that the President "has taken up with the Attorney General the request preferred in your letter of September 24." I assume this was a mistake, as you told me at our interview that you had not yet been approached on the subject.

May I inquire whether you have now considered the question, and if so, how soon we may expect a determination? As explained to you at our interview, our time for preparation is very short, and we are arranging to resume the hearings on November 20. We require this information as a basis for these hearings, which I trust you will accept as my apology for urging expedition.

For your convenience I am inclosing copy of my letter of September 24 to the President, and of my letter of October 1 to his chief clerk.

Very truly, yours,

SAML. UNTERMYER.

On October 11 counsel for the committee had this letter from the Attorney General:

EXHIBIT No. 179, JANUARY 8, 1913.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., October 11, 1912.

SAMUEL UNTERMYER, Esq.,
37 Wall Street, New York City.

DEAR MR. UNTERMYER: I have yours of 10th instant. The President has referred to me your letter of September 24 with a request for an opinion upon some of the questions involved, which is now in course of preparation and as soon as completed will be sent to the President.

Very respectfully, yours,

GEO. W. WICKERSHAM,
Attorney General.

Then follow two letters to the Attorney General from counsel to the committee, dated the 15th and 25th of October, respectively, as follows:

EXHIBIT No. 180, JANUARY 8, 1913.

OCTOBER 15, 1912.

HON. GEORGE W. WICKERSHAM,
Department of Justice, Washington, D. C.

DEAR MR. WICKERSHAM: I beg to acknowledge, with thanks, the receipt of your letter of the 11th instant, from which I note that an opinion is now in course of preparation which, as soon as completed, will be sent to the President relating to the subject matter of my letter to the President of September 24. The element of time is an important one to the committee just now.

Very truly, yours,

SAML. UNTERMYER.

EXHIBIT No. 181, JANUARY 8, 1913.

OCTOBER 25, 1912.

HON. GEORGE W. WICKERSHAM,
Department of Justice, Washington, D. C.

DEAR MR. WICKERSHAM: Referring to your letter of October 11, advising me that you have under consideration the subject presented by Mr. Farrar and my self to the President, may I again ask whether it will not be possible to now get your conclusion at an early date? As already explained to you, the committee can make no headway without the assistance which we have requested from the Comptroller of the Currency. If it is concluded to grant the aid which it was contemplated, the committee would have under the terms of House resolution 504, you will realize that it will take the department quite a time to get the information for us.

As the life of the committee is limited to the present Congress and there is a vast amount of testimony to be taken when the information that we require is secured, it will not be necessary for me to enlarge with you on the imperative need of immediate action.

Very respectfully, yours,

SAML. UNTERMYER.

There was no answer to either of those letters until the 29th of October, when the following letter was received from the Attorney General:

EXHIBIT No. 182, JANUARY 8, 1913.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 29, 1912.

SAMUEL UNTERMYER, ESQ.,
No. 37 Wall Street, New York City.

DEAR SIR: Your letter of the 25th instant is received during the Attorney General's absence.

The draft of the opinion in which you are interested has not yet been completed, but it is hoped by the assistant now working on it to have it ready to submit to the Attorney General for his consideration when he returns to the city next week.

Respectfully,

JESSE C. ADKINS,
Assistant Attorney General
(For the Attorney General).

Having had no reply further from the Attorney General, counsel for the committee again wrote him on December 16, as follows:

EXHIBIT No. 183, JANUARY 8, 1913.

NEW WILLARD HOTEL,
Washington, D. C., December 16, 1912.

HON. GEORGE W. WICKERSHAM,
Department of Justice, Washington, D. C.

DEAR SIR: On September 24, 1912, following an interview which the President was good enough to accord Judge Farrar and myself as counsel for the Subcommittee of the Committee on Banking and Currency of the House of Representatives acting under resolution No. 504, I wrote the President a letter embodying the request for access to the data required by the committee in its investigation, that had been made verbally of the President at the interview.

On September 26 I had a reply from Mr. Brahany, chief clerk to the President, dated September 25, acknowledging the receipt of my letter of the 24th and stating that it would be brought to the attention of the President on his return to Washington.

Not having heard anything meantime I wrote Mr. Brahany on October 1, inquiring if any action had been taken upon the request and calling his attention to the extent of the data required, the time that would be consumed in collecting it, and the need of such data for the hearings.

On or about October 9 I received a letter from Mr. Brahany in reply to mine of the 1st advising me that the subject matter of my letter of September 24 had been taken up by the President with the Attorney General and that "as soon as the question is determined you will be advised promptly."

Meantime I had seen you at the bar association in New York and had learned from you that the President had not yet taken up the subject with you. I accordingly wrote you on October 10, on your return to Washington, asking whether you had as

yet considered the question, and if so, how soon the committee might expect a determination, and again explaining the short time intervening before the hearings and the necessity for this data.

You replied to me by letter of October 11, stating that the President had referred my letter of September 24 to you with the request for an opinion upon some of the questions involved and that the opinion *was then in course of preparation* and would be sent to the President as soon as completed.

On October 15 I wrote acknowledging your letter of the 11th and stating, "The element of time is an important one to the committee just now."

Not having heard from you, I again wrote you on October 25 to ask whether it would not be possible to get your conclusion at an early date, and again explaining that the life of the committee is limited to the present Congress, that a vast amount of data would have to be gathered if the request was granted, which would take considerable time, and that the situation was urgent.

Your assistant, Mr. Adkins, replied to this last letter by letter dated October 29, 1912, as follows:

"The draft of the opinion in which you are interested has not yet been completed, but it is hoped by the assistant now working on it to have it ready to submit to the Attorney General for his consideration when he returns to the city next week."

Inasmuch as about seven weeks have elapsed since this last letter, may I inquire whether, and if so, how soon, the committee may expect a definite reply to the request contained in my letter to the President of September 24?

Very respectfully, yours,

SAML. UNTERMYER,
Counsel for the Subcommittee.

On December 17 a letter from President Taft:

EXHIBIT No. 184, JANUARY 8, 1913.

THE WHITE HOUSE,
Washington, December 17, 1912.

MY DEAR MR. UNTERMYER: The Attorney General has rendered an opinion to me, a copy of which he tells me he is sending to you, in which he advises me that it is within my discretion, through the Secretary of the Treasury, to ask the Comptroller of the Currency to make the investigation which it will be necessary for the comptroller to conduct in order to reach the information which you seek in respect of particular banks and particular transactions. I am informed that much of this material is not on file in the comptroller's office.

I have no objection, through the Secretary of the Treasury, to directing the Comptroller of the Currency to furnish you as much of the material which you ask as he has on file in his office. Indeed, I have already directed the Secretary of the Treasury, in compliance with your request, to furnish a certain amount of the material which you seek from the Comptroller of the Currency, but I think it would be interfering with the duties of the comptroller and imposing too great a burden on him to make him the investigating instrument of a committee of the House which itself has ample powers for the purpose, or, if not, can obtain them from Congress.

Sincerely, yours,

WM. H. TAFT.

SAMUEL UNTERMYER, Esq.,
37 Wall Street, New York City.

On the same date, a letter from the Attorney General:

EXHIBIT 184-A, JANUARY 8, 1913.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., December 17, 1912.

SAMUEL UNTERMYER, Esq.,
New Willard Hotel, Washington, D. C.

SIR: I have your favor of the 16th instant. I rendered, some little time ago, my opinion to the President on the question submitted to me, bearing upon your request to him that the Comptroller of the Currency should procure certain information for the subcommittee of the Committee on Banking and Currency of the House of Representatives, acting under resolution No. 504, and I had supposed that a copy of it had been sent to you. However, I am transmitting a copy to you herewith.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General.

The copy is here, but it is a long document.
The CHAIRMAN. It can be filed with the correspondence.

[Data relating to national banks for the use of Congress.]

DEPARTMENT OF JUSTICE, November 9, 1912.

SIR: By letter of September 24, Mr. Samuel Untermyer, one of the counsel for the Committee on Banking and Currency of the House of Representatives, which is now inquiring into the so-called Money Trust, states that he and his associates have asked the Comptroller of the Currency to secure certain data for the committee, without which it would be impossible to conduct the inquiry as directed by House resolution 504 under which the committee is proceeding, and that the comptroller has declined to secure the data without direction from you.

It appears from the letter that the committee first sought the data directly from the national banks themselves, but that their officers declined to furnish it, and that the committee now proposes to have the information obtained by the Comptroller of the Currency.

Paragraph 5 of House resolution 504 provides:

"The Comptroller of the Currency, the Secretary of the Treasury, and the Commissioner of the Bureau of Corporations, and their respective assistants and subordinates, are hereby respectively directed to comply with all directions of the committee for assistance in its labors, to place at the service of the committee all the data and records of their respective departments, to procure for the committee from time to time such information as is subject to their control or inspection, and to allow the use of their assistants for the making of such investigations with respect to corporations under their respective jurisdictions as the committee or any subcommittee may from time to time request."

In his letter Mr. Untermyer states:

"The committee desires to secure data showing (1) the character of the transactions in which certain of the leading national banks of the country have been engaging, such as the promotion and underwriting of securities on behalf of syndicates; (2) instances in which they have acted as what are known as 'issuing houses' for the sale of securities to the public; (3) transactions by the banks made directly or indirectly with their officers and directors and with corporations in which such officers and directors were largely interested; (4) purchases and sales of bonds and shares of stock by the banks and speculations conducted by them or by corporations that are owned by them.

"These are in a general way the heads of the topics with respect to which we are seeking data as a basis for the oral examination of witnesses. Our general purpose is to acquaint Congress with the character of the business in which the larger banks are engaging; to point out the public dangers, if any, accompanying the broad powers now possessed by the banks in the use of their funds; and to expose whatever abuses may be found to exist in the present system, with a view of constructive and corrective legislation. The committee purposes further to show the inadequacy of the present currency laws, the danger of panics to which they give rise, and the legislation required to correct this situation."

You have referred this letter to me with a request to be advised as to your lawful powers to give the information ascertained through the Comptroller of the Currency.

It would appear from the letter of Mr. Untermyer that but little, if any, of this information is now in the comptroller's possession, and that the comptroller in order to furnish it would be compelled to procure it by means of examinations of the banks. Two questions therefore arise in considering your request:

1. Whether you have the power to direct the comptroller to furnish to the House committee such information as is now in his possession?

2. Whether you may direct the comptroller to obtain other data and thereafter to furnish it to the committee?

1. The Comptroller of the Currency is the chief of the bureau of the Treasury Department charged with the execution of laws relating to the issue and regulations of the national currency secured by United States bonds, and he performs his duties "under the general direction of the Secretary of the Treasury." (Sec. 324, R. S.)

The statutes relating to the national banks give him full visitatorial powers to enable him to see that the national banks faithfully observe the laws and avoid insolvency.

No association may commence in business until its organization certificate has been submitted to the comptroller and he has certified that it has fully complied with all the provisions of law to entitle it to engage in business (Secs. 5168, 5169.) Where the association desires to extend its life beyond the original period, he must cause a special

examination to be made to determine that its affairs are in a satisfactory condition. (Act July 12, 1882, sec. 3, 22 Stat., 162.)

After commencing business each association must at least five times a year report to the comptroller, upon forms prescribed by him, its condition in great detail and the comptroller may at any time call for a special report from any bank. (Sec. 5211.)

The comptroller, with the approval of the Secretary of the Treasury "shall, as often as shall be deemed necessary or proper, appoint a suitable person or persons to make an examination of the affairs of every banking association, who shall have power to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the comptroller." (Sec. 5240, as amended Feb. 19, 1875, 18 Stats., 329.)

In order that he may adequately enforce the provisions of law imposing restrictions on the national banks the comptroller is vested with power to put any national bank in the hands of a receiver for the purpose of winding up its affairs—first, for not keeping its capital stock above the minimum provided by law (sec. 5141); second, for not keeping good its surplus (sec. 5151); third, for not keeping its reserve up to the prescribed minimum (sec. 5191); fourth, for holding its own stock for more than six months (sec. 5201); fifth, for failure to pay up its capital stock or for failure to make good its impairment (sec. 5205); sixth, for improperly certifying a check (sec. 5208); seventh, for nonpayment of its circulating notes (sec. 5234). By section 5239, Revised Statutes, the comptroller is charged with the duty of causing the dissolution of any national banking association through the institution of a suit to forfeit its charter whenever its board of directors knowingly violate or permit any of its officers or agents to violate any of the provisions of the national banking laws.

Finally, by section 333 of the Revised Statutes, as amended February 18, 1875 (18 Stat., 317), the comptroller is directed to make reports to Congress at the commencement of each session exhibiting—

"First. A summary of the state and condition of every association from which reports have been received the preceding year. * * * with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources * * * and such other information in relation to such associations as, in his judgment, may be useful.

"Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

"Third. Any amendment to the laws relating to banking by which the system may be improved; and the security of its holders of its notes and other creditors may be increased."

Also a statement of the business of savings banks organized under the laws of the several States and Territories and the names and compensation of the clerks employed by him and the expenses of his bureau during the year.

Thus the banking laws clothe the comptroller with authority to examine into the affairs of national banks for three main purposes: First, to ascertain the financial condition and soundness of management of national banks; second, to determine whether or not such banks are operating in conformity with the banking laws; third, to enable him to recommend amendments to the existing law.

Nowhere in the law is there any express provision that the information thus acquired by the comptroller shall be confidential. While, if in your opinion the interests of the Government require that this information shall be so treated, you have the right to refuse to divulge it (*Boske v. Comingore*, 177 U. S., 459, 469), yet, I am clearly of the view that if in your opinion it is proper to give this information to the House committee you have the lawful power to do so.

2. There remains the question whether you have the power to direct the comptroller to collect the information described in Mr. Untermeyer's letter which is not already in his possession.

At the outset it should be remarked that the paragraph of the House resolution undertaking to direct the comptroller, the Secretary of the Treasury, and other executive officers to comply with all directions of the committee for assistance in its labors has not legal effect. (6 Op. Atty. Gen., 680.) The duties of the comptroller are imposed by law and can not be lessened or increased by resolution of one House. This question must be answered, therefore, from the statutes themselves without regard to the resolution. It is not suggested that the comptroller needs the information in question to enable him to perform a duty devolved upon him by the statutes pertaining to his office. Mr. Untermeyer states that the committee of the House desires it to enable it to determine whether or not further legislation is necessary.

By section 5211, Revised Statutes, the comptroller is expressly given "power to call for special reports from any particular association whenever in his judgment the same are necessary in order to have a complete knowledge of its condition."

One view of this section is that it limits the power of the comptroller to call for reports concerning the financial condition of a particular association only, and that is not broad enough to empower him to ask reports regarding general conditions which may have a bearing merely upon the expediency of amendments to the existing law. I think that too narrow a construction of the section, because section 333, Revised Statutes (above quoted), requires the comptroller to make an annual report to Congress at the commencement of its session, showing, among other things, "any amendment to the laws relating to banking by which the system may be improved and the security of the holders of its notes and other creditors may be increased." And the power given in section 5211 to call for special reports is, in my opinion, broad enough to authorize him to call for any reports which may be necessary to enable him to determine how, in his opinion, the banking system may be improved by new legislation and what legislation he should recommend to Congress for that purpose.

This view is strengthened by the provisions of section 5240, which authorized the comptroller, with the approval of the Secretary of the Treasury, "as often as shall be deemed necessary or proper," to appoint suitable persons to make an examination of the affairs of every banking association, such examiners to have power "to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the comptroller."

But clearly the comptroller can not exercise such power merely for the purpose of procuring information for a committee of one of the Houses of Congress on which that committee may base its conclusion as to what amendatory legislation is necessary or desirable. If the committee is without adequate powers to enable it to pursue the inquiry committed to it by the House (as to which I express no opinion), it should seek additional power by way of amendment to the law or by joint resolution of both Houses of Congress. It can not properly expect the Comptroller of the Currency, by a strained construction of the statutes, to exercise a power given to him for a definite purpose to procure information for another purpose, thus furnishing indirectly the committee information which the law does not authorize it to get directly.

Since the Comptroller exercises his functions under the general direction of the Secretary of the Treasury, and therefore of yourself, it follows that if either you or the Secretary think that the comptroller should have before him in the performance of his duties any of the information mentioned in Mr. Untermeyer's letter you have the lawful power of directing him to procure it.

It is true that while the comptroller is performing quasi judicial functions, his discretion can not be controlled by you (*Butterworth v. Hoe*, 112 U. S., 50), yet this is not so of all his duties, otherwise the provision in the statute that he perform his duties under the general direction of the Secretary of the Treasury would amount to nothing. Certainly, broad general lines of policy may be laid down by you to be followed by the comptroller, and you may direct him to make inquiries along certain lines and to consider the data thus acquired in determining whether individual banks are in sound condition and are obeying the existing law and whether amendments thereto should be recommended.

If, therefore, you believe that any information outlined by Mr. Untermeyer should be obtained and considered by the comptroller in the performance of his duties, in my opinion you may direct him to procure it; and after it has been obtained for this legitimate purpose you may, if you deem proper, direct him to furnish it to the House committee. If, however, neither you nor the comptroller believe that such information is useful or necessary to him in the performance of his duties, you could not properly direct him to procure it.

I express no opinion as to the propriety of furnishing to the House committee any information gathered by the comptroller. I am informed that it has been the custom of his office to consider a great part of such information as confidential. But as to the wisdom of applying this rule in the present instance, the Secretary of the Treasury and the comptroller can best advise you.

Respectfully,

GEORGE W. WICKERSHAM.

The PRESIDENT.

Mr. UNTERMYER. Now, a letter of November 26 to the Comptroller of the Currency, Mr. Lawrence O. Murray:

EXHIBIT No. 185, JANUARY 8, 1913.

NOVEMBER 26, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.

DEAR SIR: The Subcommittee of the Committee on Banking and Currency of the House of Representatives, acting under House resolution 504, requires the following data from your department:

1. Lists of all stockholders of record in national banks in the five principal reserve cities, who were registered holders of upward of 100 shares at the time of the filing of the last lists with your department, but this information is only required with respect to banks in such cities having a capital and surplus exceeding \$5,000,000 at the time of the last statement made to your department.

2. A list of all securities held by such banks at the respective dates of their last statements.

3. A statement of the aggregate loans of such banks, separately stating the amount loaned on stock exchange collateral and otherwise.

4. A list of the consolidations of banks that have been effected in the past seven years, with the names of the leading banks, but confining the statement to the banks with a total capital on consolidation of not less than \$5,000,000.

5. A list of the national banks that have connected with them a so-called "security company" similar to the arrangement between the First National Bank and the First Security Co. and between the City National Bank and the City Security Co. I refer only to those national banks which upon distribution of profits have caused or been instrumental in causing the organization of these security companies, with substantially the same list of directors owning interests in the security companies in substantially the same proportions in which they own interests in the banks. My inquiry is limited to the cases in which the shares of the security companies are only salable or purchasable with the shares of the banks.

I understand that there are about 200 such companies in the United States. My inquiry is confined to those with a capital of upward of \$1,000,000, which will be comparatively few in number.

There is a vast amount of data that is essential to the committee to enable it to conduct this inquiry which I understand that the committee will not be able to secure from your department without Executive order, which the committee has as yet been unable to secure. The request for such order was made of the President on September 24, 1912, and was by him referred to the Attorney General. From time to time the Attorney General has promised to pass upon this request, but neither the committee nor its counsel has as yet had any definite word or decision from him, although we have seen repeated statements in the press to the effect that he has recommended the refusal of the request.

I have accordingly omitted the call for all such data from this letter, but have assumed that from no point of view could there be any objection to supplying the class of information here requested. Am I right as to this, or will the attitude of the department apply also to the limited information here asked?

As the committee resumes its oral hearings on December 9, perhaps you will be good enough to advise me as promptly as possible whether this information can be had and, if so, whether it will be available prior to the date fixed for the hearings and, if so, how soon.

Very truly, yours,

SAMUEL UNTERMYER.

Have you a list available, and, if so, can you furnish or refer me to the data, showing the names and localities of the various banks throughout the country who have correspondents in the five principal reserve cities, together with the names of the banks that act as such correspondents? Is there also data available, and, if so, can you furnish it to me, showing the average amounts of deposits in the various New York banks of money belonging to out-of-town banks?

S. U.

There is another letter from the comptroller, of December 19, in which he furnishes certain data:

EXHIBIT No. 186, JANUARY 8, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, December 19, 1912.

HON. SAMUEL UNTERMYER,
House of Representatives, Washington, D. C.

SIR: The receipt is acknowledged of your letter of recent date, and in compliance therewith you will find inclosed—

First. A list of national banks in New York City, Chicago, St. Louis, Boston, and Philadelphia, having capital and surplus of \$5,000,000 or over, with classification of loans and discounts as shown by their reports on November 26, 1912. It will be noted that this list shows the amount of loans secured by stocks, bonds, etc. All of this may not be stock-exchange collateral, but this office has no way of distinguishing.

Second. A list of national banks with which other national banks have been consolidated in the past seven years, all of such banks having upon consolidation a total capital of not less than \$5,000,000.

Third. A list of national banks that have connected with them a State bank or security company, similar to the arrangement between the First National Bank and the First Security Co., and between the City National Bank and the City Security Co., and in which the shares of the State bank or security company are only salable or purchasable with the shares of the national banks, this list being confined to national banks with a capital of upward of \$1,000,000. This list is as nearly correct as can be made from the records of the office, there being no provision in law requiring banks to render reports to this office covering this point.

Fourth. A statement showing the aggregate balances due from and to reserve agents located in the central reserve cities—New York, Chicago, and St. Louis—by reserve cities and States, on February 20, 1912. The preparation of this table required an examination of the reports of every national bank in the United States for February 20, 1912.

In reply to your further inquiry, you are further advised that this office has maintained a record showing names and localities of the various banks throughout the country who have correspondents in the five principal reserve cities, together with the names of banks that act as such correspondents.

Owing to the pressure of the current business this office has not sufficient clerical force to compile a list of stockholders and a list of securities held by national banks in the five principal reserve cities having a capital and surplus exceeding \$5,000,000, to furnish a list of reserve agents in the five principal reserve cities as desired, and to make out a table covering the reports furnished by the banks on November 26, 1912, similar to the table inclosed for February 20, 1912. If, however, the committee will authorize me to employ clerks to be paid at the rate of \$3 a day, I shall prepare the information required in the briefest time possible.

Respectfully,

LAWRENCE O. MURRAY, *Comptroller.*

Thereupon counsel for the committee sent the following day letter to the comptroller:

EXHIBIT No. 187, JANUARY 8, 1913.

NEW YORK, *December 24, 1912.*

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.:

Referring to your letter of 19th instant answering my letter of November 26, committee urgently requires data referred to in last paragraph your letter, especially lists of securities held by national banks and lists of stockholders. Can not you now without delay prepare this data with your present clerical force for delivery here next Wednesday, if lists of stockholders limited to holders of 1,000 shares and over and lists of securities limited to \$100,000 and over of any specified security owned by bank. Data might be furnished in installments, taking New York banks first, then Philadelphia, Boston and Chicago in order named. Committee also requires your presence January 7 which we trust will be convenient.

SAMUEL UNTERMYER.

On the 26th counsel for the committee had this reply from the deputy comptroller:

EXHIBIT No. 188, JANUARY 8, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, December 26, 1912.

MR. SAMUEL UNTERMYER,
No. 57 Wall Street, New York, N. Y.

SIR: The receipt is acknowledged of your telegram of December 24, addressed to the comptroller, requesting certain data for the use of the House Committee on Banking and Currency.

Mr. Murray is out of the city, but your request will have the proper attention.
Respectfully,

F. P. KANE,
Deputy and Acting Comptroller.

Another letter from counsel for the committee to the comptroller, dated December 26:

EXHIBIT No. 189, JANUARY 8, 1913.

DECEMBER 26, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.

DEAR SIR: I am in receipt of advices from St. Louis to the effect that the shares of stock of national banks or that the control of the stock of such banks is held, not by individual stockholders, but by trust companies and other corporations. If you have any record of any controlling interests in national banks held in that way may I ask you to be good enough to furnish the committee the facts?

Very truly, yours,

SAML. UNTERMYER,
Counsel to the Committee.

On the 26th of December counsel for the committee wrote the comptroller the following letter:

EXHIBIT No. 190, JANUARY 8, 1913.

DECEMBER 26, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.

DEAR SIR: The subcommittee of the Committee on Banking and Currency of the House of Representatives which is engaged in investigating the question of the concentration and control of money and credit under House resolution 504 has been satisfied from the beginning—and experience has confirmed its then stated view—that no exhaustive investigation can be conducted, such as is provided for by the resolution, without access to the books of account and affairs of the principal national banks in the great reserve cities.

The data we require at the moment relates to the loans made by the principal national banks in the reserve cities and involves a disclosure to the committee of the names of the borrowers and the security for such loans from 1905 to the present time. The committee is not, however, interested in any of such loans except those for \$1,000,000 and over. The information is desired for the specific purpose of enabling the committee to examine witnesses in connection with such loans for the purpose of ascertaining whether, and if so, in what way and to what extent, these banks are used by the great financial interests. In this connection I beg to inquire whether you are prepared to furnish this data, and if so, how soon it can be made available?

Wherever it is reasonably apparent that the transactions in question have no direct bearing upon the subject under investigation, the information will, of course, be regarded by the committee as confidential. Only such instances would be disclosed concerning which it may be found necessary to interrogate witnesses, and I beg to repeat that no data is desired of any single transaction or series of transactions of less than \$1,000,000.

Kindly advise me promptly whether the information will be furnished under the restrictions set forth in this letter, and if so how soon it will be available. In order to be of use to the committee. it should be in the hands of counsel not later than January 3, 1913.

Very truly, yours,

SAM'L UNTERMYER,
Counsel to the Committee.

On December 27 counsel for the committee had from the deputy comptroller the following reply:

EXHIBIT No. 191, JANUARY 8, 1913.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
Washington, December 27, 1912.

Mr. SAMUEL UNTERMYER,
No. 37 Wall Street, New York, N. Y.

SIR: The receipt is acknowledged of your two letters of December 26 relative to furnishing additional information for the Subcommittee on Banking and Currency.

The comptroller is out of the city, but the matter will be called to his attention immediately upon his return.

Respectfully,

F. P. KANE,
Deputy and Acting Comptroller.

Another letter of the 28th of December from counsel for the committee to the comptroller:

EXHIBIT No. 192, JANUARY 8, 1913.

DECEMBER 28, 1912.

HON. LAWRENCE O. MURRAY,
Comptroller of the Currency, Washington, D. C.

DEAR SIR: Referring to your letter of the 19th instant, a copy of which I forwarded to the chairman of the committee, I am to-day in receipt of his telegraphic reply, as follows:

"Your letter of 24th instant with inclosures received. I consider list of stockholders and list of securities held by national banks in the five principal reserve cities having capital and surplus exceeding \$5,000,000, and that of all reserve agents in five principal reserve cities with similar table of reports to that furnished by banks on November 26, 1912, inclosed in letter from the comptroller February 20, 1912 (sic), of importance, and I am willing to authorize the employment of clerks at the rate of \$3 per day to tabulate this information, provided estimate can be furnished the comptroller as to the approximate cost and that it is not too great. Please answer."

Perhaps you will be good enough to furnish a prompt answer to the inquiry therein contained concerning the approximate cost of the work and how soon it can be concluded. Unless we can get the results within 10 days it may be too late for our purpose.

Very truly, yours,

SAM'L UNTERMYER,
Counsel to the Committee.

There was no answer to that.

All of these letters are offered in evidence.

The papers referred to were thereupon marked "Exhibits Nos. 169 to 192," inclusive, January 8, 1913.

Mr. UNTERMYER. Is Mr. Murray here?

The CHAIRMAN. Yes; Mr. Murray is here.

TESTIMONY OF MR. LAWRENCE O. MURRAY.

The witness was sworn by the chairman.

Mr. UNTERMYER. Mr. Murray, you are the Comptroller of the Currency?

Mr. MURRAY. I am.

Mr. UNTERMYER. And how long have you occupied that post in the Government service?

Mr. MURRAY. Nearly five years.

Mr. UNTERMYER. You took office at what time?

Mr. MURRAY. April 28, 1908.

Mr. UNTERMYER. Have you heard read here the correspondence between counsel for the committee and the President, the Attorney General, and yourself?

Mr. MURRAY. I heard the latter part of it, Mr. Untermyer. I did not get in for the first of it.

Mr. UNTERMYER. Is there anything you would like to say concerning this correspondence and the requests that have been made upon you for information, other than what is embodied in your letters?

Mr. MURRAY. I had not seen the letters until yesterday, Mr. Untermyer. I was called home on account of illness in my family, and was there two weeks. We have furnished you, I think, up to the time I went home, all the information you asked for. I sent it to you in New York.

Mr. UNTERMYER. I beg pardon; you have never furnished us with any of the information except what was on file in your own office.

Mr. MURRAY. Yes; that is all.

Mr. UNTERMYER. Well, you have never furnished us with any of the information we asked you to secure from the banks, have you?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You have not, for instance, furnished us with any information as to the securities that are owned by national banks in the five reserve cities having a capital of \$5,000,000 and over?

Mr. MURRAY. I have had that information made up, Mr. Untermyer. It took some days, and it was finished yesterday, and it now remains for the President or the Secretary to authorize me to send it to you.

Mr. UNTERMYER. Are you aware for how many months the committee has been trying to get this information, Mr. Murray?

Mr. MURRAY. I received from you last summer some letters, and I called on you in New York and we had a conference, and I told you I would be glad to furnish you anything in my office that I was authorized to furnish by the President, as I was subject to his orders.

Mr. UNTERMYER. Yes; you referred me to the President on that subject.

Mr. MURRAY. Yes.

Mr. UNTERMYER. Do you know any reason, Mr. Murray, why the assets of a national bank should be regarded as secret?

Mr. MURRAY. I know of no reason, sir, unless—

Mr. UNTERMYER. They are so regarded, and they are guarded as secret property, are they not?

Mr. MURRAY. We have never been asked to give them out, and have never given them out, Mr. Untermyer.

Mr. UNTERMYER. Will you explain, if you choose to do so, any reason why the assets of a national bank, other than the names of the borrowers, should not be public property, available to every depositor in the bank or would-be depositor and to every stockholder in the bank?

Mr. MURRAY. If I were managing a national bank, I should make it public to every one who wanted to know, and publish it in every paper that I could reach.

Mr. UNTERMYER. But you know that it is guarded as a secret, do you not?

Mr. MURRAY. By whom?

Mr. UNTERMYER. By the banks.

Mr. MURRAY. Well—

Mr. UNTERMYER. Why does not the comptroller publish it?

Mr. MURRAY. The law gives him no direction in that regard, and it has never been done.

Mr. UNTERMYER. Don't you think it would safeguard the public and add very much to the security of banks if the Comptroller of the Currency were required, as is the superintendent of insurance in the State of New York now required, to publish a list of the assets of every bank other than the names of borrowers?

Mr. MURRAY. I think it is a wise provision, Mr. Untermyer; it would be.

Mr. UNTERMYER. Yes; you think it should be done, do you not?

Mr. MURRAY. Well, I will not say I think it should be done, but I think it would be a wholesome thing if it were done.

Mr. UNTERMYER. Does it not occur to you, Mr. Murray, that it would have a deterrent effect against the banks carrying vast quantities of a single security in which they or their officers might be interested?

Mr. MURRAY. I do not know what effect it would have.

Mr. UNTERMYER. Does it not seem reasonable that it would have the effect of making them very much more careful in making investments?

Mr. MURRAY. I could not say as to that. Legislation does not always make people careful, you know.

Mr. UNTERMYER. But to have the public eye focused upon the character of investments of a public institution tends to make it careful, does it not?

Mr. MURRAY. Well, on that I do not care to express any opinion.

Mr. UNTERMYER. Well, have you not any opinion?

Mr. MURRAY. I do not care to express an opinion on theoretical questions that way; what effect a law might have; that is a psychological question.

Mr. UNTERMYER. Is not that a question that every lawmaker has to consider when he is determining upon a law, whether it is psychological or otherwise?

Mr. MURRAY. I think it would be a very wholesome thing, but further than that I do not care to answer.

Mr. UNTERMYER. Could you not tell us why it would be wholesome? Is not that one of the things that this committee ought to find out—that is, as to the effect of a law—whether it would be good or bad?

Mr. MURRAY. If the securities of a bank were to be made public property, as they are in the savings banks I think of New York, and if I mistake not in Massachusetts—

Mr. UNTERMEYER. And in the life insurance companies?

Mr. MURRAY. And in the life insurance companies, to those who know about banking and about investments, and so on (I am not speaking now of the ordinary depositors, who pay no attention to those things), it would focus their attention onto the question of whether or not it was distributing its investments on a fair and a wise basis; it would call attention to the fact whether or not the bank was investing in securities regarded by the banking world as sound and liquid and good; and my impression is it would have a very—you are asking my opinion now, which I do not care to give.

Mr. UNTERMYER. Yes. That is what we are asking.

Mr. MURRAY. My impression is that it would have a wholesome effect in keeping out of all banking institutions securities that are not regarded by the banking and investing public as good.

Mr. UNTERMYER. Are you aware that in the State of New York the policy was pursued by the superintendents of banks of publishing lists of investments of State banks until a few years ago, when it was stopped?

Mr. MURRAY. I did not know that it was stopped. I do remember some published reports of the superintendent of the State of New York some 8 or 10 years ago of the lists of securities held by the State banks and trust companies. I turned to a recent report within a week or two to find if that was being done now, and I found that it was not. I did not know that it had ever been stopped. I do not know about that.

Mr. UNTERMYER. Looking at the subject from the point of view of justice to the stockholders and depositors, in your judgment is it not but fair to them that they should know of what the assets of the bank consist?

Mr. MURRAY. I certainly think it is. Their money is invested. It is their money and the depositors' money involved in these securities, and I see no reason why they should not know, aside from the other effects it might have as I have stated.

Mr. UNTERMYER. Do you know of any way in which they can get access to that information now as the law stands to-day?

Mr. MURRAY. Simply by the courtesy of the officers of the banks.

Mr. UNTERMYER. Have you ever known of the courtesy of the bank being extended in that direction?

Mr. MURRAY. I do not know whether it has ever been extended; neither do I know that it has been rejected. I beg pardon. I have had a few cases since I have been comptroller—three complaints of stockholders who wanted to examine the books of a bank.

Mr. UNTERMYER. They did not get into them, did they?

Mr. MURRAY. I do not know. I could not say as to that.

Mr. UNTERMYER. As to the list of stockholders, do you know why that should be guarded as a secret?

Mr. MURRAY. I do not. I think the list of stockholders of every national bank should be as public as the morning newspaper.

Mr. UNTERMYER. That would require a change in the law, would it not?

Mr. MURRAY. No; the law now says that the banks shall keep in public view a complete list of its stockholders.

Mr. UNTERMYER. It is only available to stockholders, however, is it not?

Mr. MURRAY. No; it is available to stockholders and to the assessing officers of the different localities.

Mr. UNTERMYER. It is not available, is it, to a depositor who wants to know who really owns and controls the bank with which he is doing business?

Mr. MURRAY. No; it is not; not unless the bank cares to give it to him.

Mr. UNTERMYER. I mean it is not legally available to him.

Mr. MURRAY. No.

Mr. UNTERMYER. It ought to be, ought it not?

Mr. MURRAY. I think so. My view is that the lists of stockholders of national banks ought to be posted publicly in the lobby, for everybody to see who wants to see.

Mr. UNTERMYER. In your judgment, should there not also be restrictions and regulations that would require that the actual owner of stock shall be developed, rather than a mere formal or dummy holder?

Mr. MURRAY. I certainly do.

Mr. UNTERMYER. On account of the stock liability?

Mr. MURRAY. The double liability of the stock is an asset for the protection of the depositors, and if the real owner is not revealed, the double liability can not be depended upon. You do not know whether it exists or not.

Mr. UNTERMYER. Since you have been there, has your department had considerable difficulty on that score in failed banks, finding that the stock has been transferred into the names of irresponsible persons?

Mr. MURRAY. Yes, sir; we have not had much litigation, but it comes up practically in every bank that fails.

Mr. UNTERMYER. The fact is, is it not, that the men who learn soonest whether a bank is going to fail or not are the insiders, the officers and directors? They know what is happening?

Mr. MURRAY. It depends on the directors. They are in the position to know, certainly.

Mr. UNTERMYER. They are the people in a position to know?

Mr. MURRAY. That is true.

Mr. UNTERMYER. As stockholders, are they not in a position soonest to get from under by transferring the stock out of their name into other names?

Mr. MURRAY. I have known that to be done in one or two instances.

Mr. UNTERMYER. In your judgment, should there not be some change in the law that would prevent a director or officer from escaping that stock liability by transferring his stock within a given time before a failure? For instance, that he must have transferred it six months or a year before the bank failed in order to relieve him from liability? Would not that be a wholesome provision?

Mr. MURRAY. I would go further than that. I would hold him no matter how many years had elapsed, provided he transferred it with knowledge; but that would be a very hard thing to prove. We have sued stockholders who transferred their stock, on the ground that they had knowledge of the failing condition of the bank. I do not remember the termination of the litigation, but I think we won in a number of cases, where the courts held that they had knowledge.

Mr. UNTERMYER. Where you proved that it was a colorable transfer?

Mr. MURRAY. Yes.

Mr. UNTERMYER. However, that is a very difficult proof to make, is it not?

Mr. MURRAY. Yes; it is.

Mr. UNTERMYER. In the absence of such proof, is it or is it not true that this supposed double liability on the stock is a liability that does not always materialize and is capable of evasion?

Mr. MURRAY. That is a weakness in the double liability. I believe that, as the double liability of stock is an asset for the protection of depositors, that stock ought to be held at all times by people who can respond to the double assessment. There is no law on the question of the comptroller having any control over the transfer of stock after the bank is chartered, but I issued an order about two years ago that I would not charter another national bank unless the organization papers affirmatively showed that the stockholders at the date I issued that charter were able to respond to any assessment up to 100 per cent of their holdings. I can control the situation when I issue the charter, but after that I can not.

Mr. UNTERMYER. That is not very substantial, is it?

Mr. MURRAY. That is not substantial at all; but that is the only time I can control it, and I propose to control it at that time.

Mr. UNTERMYER. Do you not find the national banking act, as applied to present financial conditions, an insufficient, inadequate body of law?

Mr. MURRAY. From the standpoint of effective administration in the comptroller's office I do. As to whether it meets the commercial necessities, that is another question.

Mr. UNTERMYER. The banking act was passed in 1863, was it not?

Mr. MURRAY. Yes; and amended the next year.

Mr. UNTERMYER. Amended in 1864?

Mr. MURRAY. Yes.

Mr. UNTERMYER. And we are operating, practically, under that law to-day, with all our changed financial conditions?

Mr. MURRAY. In so far as the substance of that law is concerned, it has not been changed hardly a hair in half a century.

Mr. UNTERMYER. Do you find any prohibition against directors dealing with their own banks?

Mr. MURRAY. There is none in the law.

Mr. UNTERMYER. There ought to be, ought there not, Mr. Murray?

Mr. MURRAY. Well, I have turned that subject over in my mind quite a little.

Mr. UNTERMYER. Do you know the foreign system?

Mr. MURRAY. Some of our States prohibit a director from borrowing from his banks.

Mr. UNTERMYER. Do you know the system that in England, Germany, and France they are not permitted to deal with their corporation?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Do you not see a great peril in permitting directors to borrow money from their own corporations?

Mr. MURRAY. The records of the comptroller's office show that we have a good many failed banks that have been ruined by the directors borrowing undue amounts and loaning the money to their own concerns that afterwards failed and dragged the banks down. I

think there ought to be a pretty drastic law on the subject; but whether or not it should absolutely prohibit a man who is in excellent credit from borrowing from a bank of which he happens to be a director, I am in doubt. Certainly, however, I think the law ought to prohibit directors from ruining the banks, as they now sometimes do.

Mr. UNTERMYER. It is pretty difficult to draw the line, if you give them the right to put their hands into the till, is it not?

Mr. MURRAY. Yes; it is difficult.

Mr. UNTERMYER. The question of how soon they shall take it out is a difficult one for the law to regulate?

Mr. MURRAY. Yes.

Mr. UNTERMYER. I want to call your attention to a recommendation in your annual report for 1911 to Congress, as follows [reading]:

An amendment forbidding any officer of a national bank to directly or indirectly receive or accept money or other valuable thing from any borrower from the bank as a reward or inducement or consideration for obtaining the loan from the bank of which he is such officer should also be enacted.

The dishonest practice by officers of national banks of receiving personal compensation for loans made by the bank is a growing evil, and has already reached such proportions as to call for criminal legislation on the subject. In this manner either the bank is defrauded of lawful interest which it would otherwise receive, or usurious interest is exacted of a borrower by the corrupt officer. A secret reward to the officers is sometimes a deliberate bribe for obtaining a loan on insufficient security. It is recommended that the taking or accepting of money or other valuable thing from a borrower by any officer of a national bank for his own personal use, as a reward, inducement, or consideration for obtaining the loan from the bank of which he is such officer, shall be made an offense and punished by imprisonment in the penitentiary. A law should be enacted determining the period during which any person can be prosecuted, tried, or punished for offenses under the national-bank act.

Has any action been taken on that recommendation, Mr. Murray?

Mr. MURRAY. Nothing, except that I have received some letters of criticism for making the recommendation.

Mr. UNTERMYER. That is not the kind of action I refer to. I refer to legislative action.

Mr. MURRAY. None, Mr. Untermyer.

Mr. UNTERMYER. Have you ever attempted any reform in your office without receiving letters of criticism or criticism in some other form?

Mr. MURRAY. The comptroller does not know of these things unless he stumbles on them by accident, as we have done after banks have failed.

Mr. UNTERMYER. Do you not come across these things in your examinations?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You have never examined into any of the national banks to find out as to the existence of this dishonest practice on the part of any banks that have not failed?

Mr. MURRAY. We have found it after the banks have failed; after they have gone into the hands of a receiver; but we never make any inquiry at the time of examination of a national bank on that point.

Mr. UNTERMYER. The facts are quite as available to you before the bank fails as they are after it fails, are they not?

Mr. MURRAY. I do not think they are.

Mr. UNTERMYER. It is a very common practice, is it not?

Mr. MURRAY. I should not say that, sir. I know it has been done. The chief of the Insolvency Division, who administers the failed banks in my office—Judge Oldham, now dead—in his 10 years' experience of administering the failed banks and directing the legal work, was justified in making that recommendation, which I incorporated in my report.

Mr. UNTERMYER. You say in your report that it is a growing evil, and has already reached such proportions as to call for criminal legislation.

Mr. MURRAY. Yes.

Mr. UNTERMYER. Did you mean to imply, or did you not, that it was a growing evil in the banking world in the case of failed as well as nonfailed banks?

Mr. MURRAY. The recommendation was not based on going banks. It was based on his experience in the winding up of the failed banks, of which there have been about 500.

Mr. UNTERMYER. And of the 500 failed banks, in how many did you find that these practices had existed? Practially all of them?

Mr. MURRAY. No; I could not say.

Mr. UNTERMYER. Do you know in what proportion the practice existed?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Have you any record of the facts on which this recommendation is based?

Mr. MURRAY. I have quite a file of letters—probably 50 or 100—on the subject.

Mr. UNTERMYER. If your examiners were instructed to investigate with a view to the discovery of these facts, you could find them. could you not?

Mr. MURRAY. I do not think so.

Mr. UNTERMYER. How is it you can find them in the books after a bank has failed if you can not find them in the books before it has failed?

Mr. MURRAY. You do not find them in the books of the bank after the bank has failed. They are not matters of entry. You find them by other means—by rumor and by taking a certain transaction and tracing it back and getting at in roundabout ways, and having it revealed in that way. Those matters are never matters of record entered on the books of the bank.

Mr. UNTERMYER. Do you know of the practice between officers of national banks of swapping loans?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Do you investigate to determine as to the existence of such a practice between officers in different banks to borrow of one another or of one another's banks?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You do not investigate to find out as to that?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Of course, it could be ascertained by examination, could it not?

Mr. MURRAY. Why, the loans of every bank are in the bank's bills and notes.

Mr. UNTERMYER. Yes; and by a system of comparison it would be easy to ascertain if there is or is not such a practice, would it not?

Mr. MURRAY. Well, it could be ascertained if A borrowed from B's bank and whether B borrowed from A's bank, but whether that is swapping loans or not I would not know.

Mr. UNTERMYER. It would not be difficult for you to put the facts together and determine it, would it?

Mr. MURRAY. That is a matter of deduction that one might deduce one way or another.

Mr. UNTERMYER. The department has made no such investigation, however, and is not able to say whether there is such a practice; is that right?

Mr. MURRAY. That is right.

Mr. UNTERMYER. The committee would like to know a little about the character and extent and the frequency of the examinations of national banks, and for that purpose suppose you confine yourself to the national banks in the five great reserve cities.

Mr. MURRAY. The number of examinations of national banks used to be one a year. It was changed to twice a year by my predecessor, I think, not by me; and that is the practice of the office now—two examinations a year of all national banks, whether they be in the large cities or in the country districts.

Mr. UNTERMYER. And are they at specified periods of the year?

Mr. MURRAY. Well, between five and seven months apart.

Mr. UNTERMYER. How many banks have you to examine?

Mr. MURRAY. About 7,500.

Mr. UNTERMYER. How many examiners have you?

Mr. MURRAY. About, I think, 105.

Mr. UNTERMYER. That is, about 1 for every 75 banks?

Mr. MURRAY. Yes; a little more than that in the country districts.

Mr. UNTERMYER. These examiners are divided into districts, are they?

Mr. MURRAY. They have a specified territory, not fixed by law.

Mr. UNTERMYER. In the city of New York how many examiners have you?

Mr. MURRAY. Two.

Mr. UNTERMYER. Does that include all the assistants?

Mr. MURRAY. No.

Mr. UNTERMYER. How much assistance have they?

Mr. MURRAY. The office has no assistants. The examiners themselves hire whatever force they consider necessary.

Mr. UNTERMYER. They are permitted, then, are they, to employ such aid as they need?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. But are they required themselves to conduct the examination?

Mr. MURRAY. They are supposed to be at the bank during the examination.

Mr. UNTERMYER. That is a physical impossible job for two examiners, is it not, in the city of New York? I mean, if they want to make anything more than a merely formal and perfunctory examination?

Mr. MURRAY. Do you mean alone, or with their assistants?

Mr. UNTERMYER. Even with their assistants.

Mr. MURRAY. Oh, no; it is not physically impossible.

Mr. UNTERMYER. How many banks are there in New York?

Mr. MURRAY. In New York City?

Mr. UNTERMYER. Yes.

Mr. MURRAY. I do not remember how many national banks there are. Twenty or twenty-five.

Mr. UNTERMYER. You mean in Greater New York?

Mr. MURRAY. Yes; in Greater New York.

Mr. UNTERMYER. That includes Brooklyn as well as Manhattan?

Mr. MURRAY. Yes.

Mr. UNTERMYER. What sort of reports do these examiners make to the department?

Mr. MURRAY. They make a report on a blank which we furnish; a very elaborate, or quite an elaborate blank.

Mr. UNTERMYER. Have you one of those blanks?

Mr. MURRAY. I have not one here; no.

Mr. UNTERMYER. Will you furnish this committee with a form?

Mr. MURRAY. I will get it up here in 10 or 15 minutes. We have just revised the blank. We have discarded the old one.

Mr. UNTERMYER. Will you let us have the old one that you have been using up to this time, and the one you are now inaugurating?

Mr. MURRAY. Yes. The old blank was in use a great many years, and did not give much of the information that we ought to have, and has been just revised, and the new form has been in use about three months, I think.

Mr. UNTERMYER. One of the duties of the examiners is to count the securities, is it not?

Mr. MURRAY. Yes.

Mr. UNTERMYER. That takes a considerable part of his time in these large banks, does it not?

Mr. MURRAY. Yes, sir. They check over the securities for every loan.

Mr. UNTERMYER. The examiner has the authority, has he, to administer oaths to the officers?

Mr. MURRAY. There has been a legal question raised on that once, by a bank officer. We have always held that he had, and so hold. One bank officer, however, read the statute, and he did not think they had. The statute reads:

The bank examiner may examine the officers and directors and all others under oath.

The office has construed that to mean that the examiner may administer the oath. It has never been questioned but once in 50 years. Perhaps the one man was right and the office is wrong.

Mr. UNTERMYER. Your examiners are under oath?

Mr. MURRAY. They never were until I became comptroller.

Mr. UNTERMYER. There is no statute requiring the oath?

Mr. MURRAY. No.

Mr. UNTERMYER. Then of what use is the oath, except as a form of moral suasion?

Mr. MURRAY. The law does not require the oath of two or three hundred thousand civil-service employees, but they all take it.

Mr. UNTERMYER. You know that if they did not observe the oath they could not be punished unless there was some statute under which they took the oath. You realize that, do you not?

Mr. MURRAY. Yes; but I thought it was good administration to put the bank examiners on the same plane with the other people.

Mr. UNTERMYER. The oath should be required by law, should it not?

Mr. MURRAY. Oh, I think so. I think there is no doubt about that. And, on that point, the bank examiners were never required to give a bond, although they were in charge of something like ten or eleven billions of assets all the time. And they had never given a bond, and there was some criticism of that. The law does not require the bond, but I required that they give a bond to me in the sum of at least \$20,000 for the faithful performance of their duty; and every one of them has given that bond.

Mr. UNTERMYER. Have you not been advised that the bond is about as valuable as a blank piece of paper, not being given pursuant to any law, and could not be enforced?

Mr. MURRAY. I think if they gave the bond to me and they were short in their accounts, or did something in dereliction of their duty, that I would try to enforce the bond. The court might hold that it was no good. But, at any rate, it is on file in my office.

Mr. UNTERMYER. Have you taken any advice on the subject as to the requirement of the law under which the bond should be given?

Mr. MURRAY. No. I asked my legal adviser, who passed on the bonds, as to their legality, and so on. As to whether I could enforce them or not, that would be another question.

Mr. UNTERMYER. As a matter of fact, Mr. Murray, has any occasion ever arisen under your administration in which a recourse would have been required to a bond?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. There has not?

Mr. MURRAY. No, sir. We have a very fine corps of examiners.

Mr. UNTERMYER. And you know of no case in which a bonded bank examiner would have been required to be prosecuted, either in your administration or prior thereto?

Mr. MURRAY. We have had bank examiners whom I think a bond would have had a good effect upon.

Mr. UNTERMYER. What sort of supervision is there over the action of the two bank examiners in the city of New York as to the performance of their duties?

Mr. MURRAY. The bank examiners in New York are under the same supervision as all the others in the United States.

Mr. UNTERMYER. What supervision is that?

Mr. MURRAY. They are appointed and given the banks to examine, and then examine them and file their reports.

Mr. UNTERMYER. I do not think that answers the question. Are they under any supervision, in fact, in the conduct of their examination?

Mr. MURRAY. I must ask you—

Mr. UNTERMYER (interposing). Except that they are under your general control.

Mr. MURRAY. When they are examining the bank, of course, they are in entire charge of the work of examination, just as all other examiners are. They go into a bank and take charge of it, take charge of the different departments, usually seal the vaults, the different compartments and cash and reserve money, and are in abso-

lute control of the institution in all its departments until they complete the examination, write up their report, and file it.

Mr. UNTERMYER. And in practical effect that is the end of it, is it not, when they file their report?

Mr. MURRAY. Yes, sir—oh, no.

Mr. UNTERMYER. Nobody supervises that?

Mr. MURRAY. Nobody supervises the examiners' reports?

Mr. UNTERMYER. Does anybody supervise their reports in practical effect?

Mr. MURRAY. The reports of all the examiners come to the office; they are very carefully examined by a corps of competent examiners in my office; they come from those examiners to the Chief of Reports Division, who goes over the reports again. If there is any matter of criticism it is briefed very carefully, comes through the Chief of Reports' Division with his recommendation, then comes through the deputy comptroller's, this written brief and recommendations, and to the comptroller; and if there is a matter of criticism it is either taken up by the examiners with the board of directors at the time of the examination and corrected by an agreement between the board of directors and the examiners, or if that can not be accomplished (and it usually is now) a letter of criticism goes from the comptroller's office to the bank. The reports are very carefully gone over in the comptroller's office.

Mr. UNTERMYER. That is your system with respect to matters that are reported by the examiners?

Mr. MURRAY. Yes.

Mr. UNTERMYER. My question was intended to be directed to the supervision of the work of the examiners themselves rather than to the criticism that the examiners passed upon the banks. There is no supervision of the work of the examiners, is there?

Mr. MURRAY. Well, I have been in 19 different States working with the examiners myself, spending a day or two with each one, and have examined the books with them in these different States to see how they were actually doing their work, going in early in the morning and staying with them until late at night; but I have not been able to get into all the States, as I hoped to do.

Mr. UNTERMYER. Then, as a matter of fact, you do practically supervise from time to time some of the work of the examiners?

Mr. MURRAY. I have intended to do it all, but have only been able to get into 19 States.

Mr. UNTERMYER. That is what I wanted to find out.

Mr. MURRAY. I felt I could not administer the office very well without knowing what the men were doing in the field, and I proposed to go out and see what they were doing and to work with them.

Mr. UNTERMYER. Don't you require a very much larger force to make a full and complete examination of the banks?

Mr. MURRAY. Oh, the whole question of bank examination is illogical and unscientific and simply impossible under the present laws.

Mr. UNTERMYER. It is superficial under the present law?

Mr. MURRAY. Yes. No one has denounced that any harder than I have.

Mr. UNTERMYER. Do you cooperate with the State banking authorities?

Mr. MURRAY. I do.

Mr. UNTERMYER. Are your examiners authorized to compare notes with them?

Mr. MURRAY. I have issued an order that every State bank that is in any way affiliated with the national banks, that the national-bank examiner must examine the national bank when the State examiner examines the affiliated State bank so that they will both be examined on the same day. And that order is in effect, I think, in every State with the exception of possibly one, where it does not work quite so well.

Mr. UNTERMYER. What means are there for comparing notes between the State examiners and the national-bank examiners with respect to banks in a locality where there is no connection between a national bank and a State bank?

Mr. MURRAY. They compare notes if they see fit.

Mr. UNTERMYER. For instance, if they want to find out whether a man is over extended they can not find that out by simply looking into one bank, can they?

Mr. MURRAY. No. We have gone much further than that, Mr. Untermyer. When the State-bank examiners in a certain city which I have in mind went to examine all the State banks in the city, quite a large force of them, my bank examiners went to the same city and examined the national banks at the same time, so they were all covered the same week.

Mr. UNTERMYER. In cooperation with one another?

Mr. MURRAY. In cooperation with one another.

Mr. UNTERMYER. And you exchanged information?

Mr. MURRAY. They are authorized to exchange such information as they think is reasonable and without harm to either institution, to the end that the exact conditions may be reported to the State authorities and to my office.

Mr. UNTERMYER. Is that the method of procedure in New York and in other places?

Mr. MURRAY. I think it is more highly developed in New York, there is better cooperation in New York City than in any other State or in any other city.

Mr. UNTERMYER. Do the examiners there exchange information and compare notes?

Mr. MURRAY. They do very fully, I believe.

Mr. UNTERMYER. Do they keep any records of the loans and the extent to which large borrowers are committed?

Mr. MURRAY. A very elaborate system, Mr. Untermyer. The State superintendent of New York has a card index of every borrower in the State of New York of over \$5,000, he tells me, not only in the city but in the State.

Mr. UNTERMYER. Do you keep a like index?

Mr. MURRAY. I do not know how full, but probably not quite as full as that; but our national-bank examiners are instructed to keep a very careful account of every borrower in their respective districts, and the different banks from which they borrow.

Mr. UNTERMYER. How frequently is that card revised and brought up to date?

Mr. MURRAY. At the time of each examination.

Mr. UNTERMYER. That is twice a year.

Mr. MURRAY. Twice a year.

Mr. UNTERMYER. And those cards are kept where, in New York City?

Mr. MURRAY. They are kept in the office of the different examiners in New York and——

Mr. UNTERMYER. There are two examiners?

Mr. MURRAY. You are speaking of New York City?

Mr. UNTERMYER. Yes.

Mr. MURRAY. They would be in New York City.

Mr. UNTERMYER. The two examiners would keep those cards at the same office; that is, in the office of your department in New York City?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. And the State examiners would keep their cards in the State office?

Mr. MURRAY. Yes.

Mr. UNTERMYER. How frequently are those cards compared or that information compared between the two sets of examiners?

Mr. MURRAY. I do not know.

Mr. UNTERMYER. Have you any instructions on that subject?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Has each of these two examiners in New York City his own banks to examine, or do they examine alternately one another's banks?

Mr. MURRAY. They exchange lists.

Mr. UNTERMYER. They examine one another's banks?

Mr. MURRAY. Yes.

Mr. UNTERMYER. The same examiner does not examine the same set of banks all the time; is that right?

Mr. MURRAY. No.

Mr. UNTERMYER. Who are the examiners in New York now?

Mr. MURRAY. Mr. Roroback and Mr. Starek.

Mr. UNTERMYER. Who were their predecessors?

Mr. MURRAY. Mr. Hanna and Mr. Starek.

Mr. UNTERMYER. Mr. Hanna left the department when?

Mr. MURRAY. Upward of two years ago, I think.

Mr. UNTERMYER. He went into the employ of the examiner of the New York Clearing House Association, did he not?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Do you know any of the men who were formerly examiners in New York?

Mr. MURRAY. Well, I have a slight acquaintance with one or two of them that I met, but I do not recall their names now. One of them went into the Seventh National. A very slight acquaintance, and I do not even recall their names.

Mr. UNTERMYER. As a rule they drift out of the public service into the banks, do they not?

Mr. MURRAY. Not as a rule. Very often the examiners go into the banks, but very often a good many that I wished did do not.

Mr. UNTERMYER. Do you know of any previous examiners in the New York district, who have been examiners, who have not gone into banks from public service?

Mr. MURRAY. I do not remember who the examiners were there, and I do not know where they are now, but quite often the banks offer the bank examiners who are competent and progressive and

good, positions, and we are constantly losing some of our good men that way.

Mr. UNTERMYER. They are best equipped for that service—their experience in the public service equips them for important service in the banks, does it not?

Mr. MURRAY. It equips some of them and some of them do not equip for anything.

Mr. UNTERMYER. Never good for anything?

Mr. MURRAY. Yes.

Mr. UNTERMYER. They stay in the service.

Mr. MURRAY. We usually keep those.

Mr. UNTERMYER. In recent years, Mr. Murray, there has developed the system of examination independent of the Federal banking service, has there not?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. That is the system of examiners appointed by the clearing house associations in the different localities?

Mr. MURRAY. Yes.

Mr. UNTERMYER. That started in Chicago, did it not?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. In what year?

Mr. MURRAY. I think about six or eight years ago—1904.

Mr. UNTERMYER. And it found its way to New York in what year?

Mr. MURRAY. About two years ago, I think, sir.

Mr. UNTERMYER. Does it exist now in most of the large cities?

Mr. MURRAY. I think in about 20 cities, Mr. Untermyer.

Mr. UNTERMYER. In about 20 cities the clearing house associations have their own corps of examiners for the banks that are members of the clearing house association?

Mr. MURRAY. Yes.

Mr. UNTERMYER. You have two examiners, you say, for Greater New York. Do you know how many examiners the Clearing House Association of New York has?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Did you not know it had 13—that is, 12 besides Mr. Hanna, at the head of it?

Mr. MURRAY. I do not know what their force consists of.

Mr. UNTERMYER. You know, do you not, it has a much larger corps of assistants than you have?

Mr. MURRAY. Well, I lost one man to them—they took one of my men—but I have no information as to how their force is made up—as to the number or who they are—except one man.

Mr. UNTERMYER. Your examiners cooperate with them, do they not?

Mr. MURRAY. I think they do.

Mr. UNTERMYER. Have you no intimate knowledge of the method of cooperation between the clearing-house examiners and your examiners?

Mr. MURRAY. I know that my examiners in all the clearing-house cities have general instructions to cooperate in a general way with the clearing-house examiners.

Mr. UNTERMYER. In about the same way in which they cooperate with the banking departments?

Mr. MURRAY. In about the same way; yes.

Mr. UNTERMYER. The same way?

Mr. MURRAY. No different instructions; yes.

Mr. UNTERMYER. Do you know whether the clearing house association examiners in New York also have a card index of the loans, so that they can observe the extent to which a man is committed?

Mr. MURRAY. I have no information as to how their office is organized.

Mr. UNTERMYER. Do you know whether your card index and theirs are compared?

Mr. MURRAY. I do not.

Mr. UNTERMYER. Do you not know anything about the method of cooperation?

Mr. MURRAY. The details of it; no, sir.

Mr. UNTERMYER. But you say you have given your examiners the same general instructions to cooperate with the clearing-house examiners and with the State banking departments?

Mr. MURRAY. Yes.

Mr. UNTERMYER. That would involve, would it not, that they should get together in comparison of their card indices and in determination of the extent to which men were extended in their loans or commitments?

Mr. MURRAY. Probably I might, by taking a specific instance, give the committee a little information.

Mr. UNTERMYER. If you will, we would be glad to have it.

Mr. MURRAY. For instance, in a city where we have a clearing-house examiner and a national-bank examiner, in order to avoid multiplicity of examinations, the clearing-house examiner often examines the bank with his force at the same time the national-bank examiner and his force are in. Now, the law authorizes the comptroller to force a bank to charge off its losses, a recent decision of the Supreme Court, when they are ascertained. The clearing-house examiner examines the same bank with the national-bank examiner at or about the same time; there may be a question on certain securities or on certain paper as to whether they are losses or not, and the bank examiners often confer on these difficult questions of losses, and the national-bank examiner will give the clearing-house examiner what his judgment of the losses in that bank is, and the clearing-house examiner, from his credit files and all the information which he has, will give the national-bank examiner his estimate of losses. They usually agree.

Mr. UNTERMYER. That relates to commercial paper or to bonds or stocks or any class of securities?

Mr. MURRAY. To whatever they may have. They confer on the credit of the banks, and exchange information, and I presume exchange opinions as to whether or not certain loans are good or bad. They each have different channels of information. For instance, the national-bank examiner has 100 men he may write for information about a borrower, and the clearing-house examiner may have other lines of information which are closed to the national-bank examiner.

Mr. UNTERMYER. As a matter of fact he has very many lines in great cities, which are closed to the bank examiner, through the affiliations of the clearing-house associations and their members?

Mr. MURRAY. Well, the bank examiner would have a right to ask all the national banks of the clearing house for information as well as the clearing-house examiner.

Mr. UNTERMYER. But that would not give you any access into the State banks or trust companies?

Mr. MURRAY. No; that is true.

Mr. UNTERMYER. That is where they have the advantage over you in getting data, is it not?

Mr. MURRAY. Well, they have that source of information which is closed to my examiners; yes, sir.

Mr. UNTERMYER. And that you get through them?

Mr. MURRAY. We could get it.

Mr. UNTERMYER. For the purpose of checking up the borrowers?

Mr. MURRAY. We could get it if they are willing to give it, and they usually are.

Mr. UNTERMYER. It is a very important and necessary source of information in a city like New York, is it not?

Mr. MURRAY. I think so; because a borrower might show himself not over extended in the national banks, when, as a matter of fact, he might be a very heavy borrower in the State banks and trust companies in addition to the borrowings shown in the national banks.

Mr. UNTERMYER. The clearing-house association examiners in New York City have a very complete indexing system and list on the subject of borrowings, have they not?

Mr. MURRAY. I do not know.

Mr. UNTERMYER. Do you know what data they have that they compare with your examiners?

Mr. MURRAY. I do not. I have never been in their office and do not know how it is organized or what the files show.

Mr. UNTERMYER. All you know is in a general way that there is this exchange of information?

Mr. MURRAY. Yes; that is the extent of my knowledge.

Mr. UNTERMYER. Is the information gathered by your examiners regarded as secret?

Mr. MURRAY. It has always been regarded by the office as confidential.

Mr. UNTERMYER. Well, now, confidential as against whom?

Mr. MURRAY. We have never even produced the reports of the examiners in court. We were subpoenaed to produce them at one time, and we asked the judge to rule whether or not we should obey under the law as it existed, and he ruled that those reports need not be produced in court under the subpoena.

Mr. UNTERMYER. Where was this?

Mr. MURRAY. It was in New York.

Mr. UNTERMYER. In what court?

Mr. MURRAY. The Federal court.

Mr. UNTERMYER. What judge?

Mr. MURRAY. I am not sure. I do not remember what judge.

Mr. UNTERMYER. The examiners of the clearing-house association are not officials of any Government department or even of the corporations, are they?

Mr. MURRAY. If the clearing houses are incorporated, they are. I do not believe they are incorporated.

Mr. UNTERMYER. You believe they ought to be, do you not?

Mr. MURRAY. I do not know about that. I have not expressed any opinion on it.

Mr. UNTERMYER. That is the reason I am asking you.

Mr. MURRAY. I do not know.

Mr. UNTERMYER. You have not made up your mind upon that?

Mr. MURRAY. I have not made a study of the clearing houses of the country, and as to whether they would be any better managed than they are by being incorporated I have not any opinion, because I have not any information as to how they are handled now.

Mr. UNTERMYER. You mean from your contact with the banks of the country you have not reached any conclusion as to how the clearing-house associations are managed in the country?

Mr. MURRAY. I have made no study of clearing houses, Mr. Untermyer, at all.

Mr. UNTERMYER. Coming back to the question of these examiners of the clearing-house associations, you know they are unincorporated voluntary associations?

Mr. MURRAY. I know that New York is, and I think Chicago; but that information came to me incidentally. But as to whether the others are, I do not know.

Mr. UNTERMYER. Then you know that the examiners whom they employ are responsible only to these unincorporated voluntary associations?

Mr. MURRAY. Surely.

Mr. UNTERMYER. What is there in the position and office of those examiners, Mr. Murray, that is so much more sacred that your official examiners should be permitted to expose to them the affairs of your office which they regard as confidential, even as against the courts of the land?

Mr. MURRAY. I think the cooperation between the clearing-house examiners and the national-bank examiners is just a question of credits, of which both have full information.

Mr. UNTERMYER. That is the most confidential part of your business, is it not—the question of credits?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Taking up this question of the clearing-house associations, did you know of the practice of associations requiring banks who want the privilege of clearance to clear through clearing-house banks instead of being permitted to join the association, or are you entirely unfamiliar with that practice?

Mr. MURRAY. Except in a general way I am quite unfamiliar.

Mr. UNTERMYER. You do not care to discuss that at all?

Mr. MURRAY. I am not prepared to discuss it, because I do not know the facts of the different clearing houses. I do know we have had a complaint two or three times from banks in clearing-house cities saying that they were asked to subscribe to a rule which they thought was inimical to their interests or their bank, and asking what we could do about it, and I have replied, and the office has always replied, that the comptroller has no jurisdiction over clearing-house associations at all under the law, and declining to express any opinion in the premises or to offer any avenue of relief.

Mr. UNTERMYER. Let me submit this question to you: Don't you think it comes within the jurisdiction of the comptroller to say to

a national bank that it shall not allow the question of whether it is to charge its customers a given commission on the collection of out-of-town checks to be determined by some other body and to permit its board to surrender its right to regulate the affairs of that bank?

Mr. MURRAY. I think that is a question for the bank, the board of directors and its counsel, and not for the comptroller.

Mr. UNTERMYER. Suppose the comptroller should find the board of directors of the bank had delegated all the powers of the bank to some other and unincorporated institution, would not that be within the purview of the comptroller to regulate or to prevent?

Mr. MURRAY. The law puts the management of a national bank on its board of directors, and they take an oath to manage it in accordance with the law. Now, as to whether they delegate their powers or not, I do not think it is a question for me to decide.

Mr. UNTERMYER. If they lend one man too much money, you will step in and say something about it, will you not?

Mr. MURRAY. The law fixes how much they may loan; I do not.

Mr. UNTERMYER. What?

Mr. MURRAY. The statute fixes how much they may legally loan, and not the comptroller.

Mr. UNTERMYER. If they make what you regard as an improvident loan, you criticize it?

Mr. MURRAY. We criticize it if we regard it as bad or doubtful.

Mr. UNTERMYER. If they surrender their corporate rights to some other institution, you do not think that is any business of the comptroller?

Mr. MURRAY. Well, I have never had a case brought up to me where the board of directors had surrendered their rights. I do not know what I would say if such a question came up. I have insisted upon the boards of directors managing the national banks.

Mr. UNTERMYER. Don't you know the boards of directors of national banks surrender to the clearing house associations the right to say what they shall charge their customers for collecting checks and subjecting them to expulsion if they do not observe the rules of the association?

Mr. MURRAY. I do not know that. I never saw the rules of the New York Clearing House.

Mr. UNTERMYER. How are you guided in the examination of a bank in fixing the value of its securities that are listed on the New York Stock Exchange?

Mr. MURRAY. I believe they usually, on the day of the examination, check them with the market quotations of that day.

Mr. UNTERMYER. You accept, then, do you not, the published quotations of the New York Stock Exchange that are printed in the newspapers and go through the mails as presumptively the value of those securities?

Mr. MURRAY. I think so, Mr. Untermyer. I know the schedule on the examiner's report shows the book value of every security, and in the next column the market value. I suppose they determine that by the published quotations.

Mr. UNTERMYER. And those are the quotations of the New York Exchange, where the securities are listed on the New York Stock Exchange?

Mr. MURRAY. Yes. Of course where they are not listed they have to take other avenues to try to find out what they are worth.

Mr. UNTERMYER. Where they are listed they go no further?

Mr. MURRAY. There is one of the reports [handing paper to counsel]. Where they are not listed they have to get other information. They correspond and write banks and write the other examiners and write the State examiners and go through every avenue of information that they can think of to get the value of the securities. I mean the good examiners do that. The others do not.

Mr. UNTERMYER. Now, I am referring only to those that are listed, for the moment. If, therefore, the quotation of a listed security does not represent the open, free market in that security, but represents the result of manipulation of that security, the department would be deceived to that extent.

Mr. MURRAY. It would, if the examiners took the published quotations, as I believe they do.

Mr. UNTERMYER. I want to ask you about this practice of overcertification. Have you dealt with that in any of your reports recently?

Mr. MURRAY. Mr. Untermyer, that question came up before I was comptroller, and I think there was quite a general criticism of it, but since I have been comptroller I have heard nothing of it. As I remember it, the practice used to be that the banks overcertified checks in the morning without any note, or—

Mr. UNTERMYER. You know how they avoid it now?

Mr. MURRAY. They make a note, I believe, and then the bank certifies.

Mr. UNTERMYER. I wish you would tell us the procedure by which the national banks in New York City that deal with stock brokers regulate that subject of loans to the brokers in lieu of the old method of overcertification?

Mr. MURRAY. I have never looked into it.

Mr. UNTERMYER. Is it not a very important branch of your duties?

Mr. MURRAY. As to how they make their loans?

Mr. UNTERMYER. Yes; as to whether they are simply endeavoring to evade the illegal practices of overcertification?

Mr. MURRAY. My examiners in New York have never reported that there has been any evasion of the law in that regard, and I have never looked it up.

Mr. UNTERMYER. Do you know what they do? You started to tell us what they did.

Mr. MURRAY. No; I did not start to tell what they did. I started to tell you what my information was as to the old practice of overcertification and what the new practice is, but my information is limited on that.

Mr. UNTERMYER. That is what we want. Please proceed.

Mr. MURRAY. I understand they used to certify a check without a loan having been put through the bank.

Mr. UNTERMYER. That is, for the daily needs?

Mr. MURRAY. For the daily needs.

Mr. UNTERMYER. The broker, as I understand it (and you will correct me, perhaps, if I am wrong), has to make settlement each day for the transactions on the stock exchange of the preceding day, has he not?

Mr. MURRAY. Yes.

Mr. UNTERMYER. For that purpose he requires certification of checks?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Now, then, if you will go on.

Mr. MURRAY. The question, I believe, came up under my predecessor as to whether a national bank was not violating the law in certifying to a check when the man had no credit balance, and I am advised, and I have very little information on the subject, that the banks adopted the plan of the broker making a note in the regular way, and it was put through the loans and discounts, and the amount of the note or proceeds credited to his account, and certification made against that credit. Now, that is the only information I have on the subject.

Mr. UNTERMYER. When does he produce the collateral for that loan?

Mr. MURRAY. I do not know. I do not know much about stock-exchange transactions in New York.

Mr. UNTERMYER. That is a very important part of a bank examiner's business to know about it in New York, is it not?

Mr. MURRAY. Possibly the bank examiners do. It is the bank examiner's business to certify to me whether every loan he finds in the bank is a good loan or not. As to how it is run through the books, I do not know.

Mr. UNTERMYER. Don't you know these loans are made daily, from day to day, that they are demand loans, and that every day's business is the subject matter of a separate transaction?

Mr. MURRAY. I know in a general way how the loans are made; yes, sir.

Mr. UNTERMYER. You do know?

Mr. MURRAY. Yes, sir; in a general way.

Mr. UNTERMYER. When the broker comes in the morning and presents a note as the basis for overcertification, do you not know there is an understanding that that afternoon he has to put in the collateral?

Mr. MURRAY. No.

Mr. UNTERMYER. You do not know that?

Mr. MURRAY. I do not know that.

Mr. UNTERMYER. Do you not know that before the end of the day the bank has the collateral for that loan?

Mr. MURRAY. I do not know the way stock brokers in New York do business with the banks.

Mr. UNTERMYER. Is it your idea that the bank lends that money to the broker without collateral?

Mr. MURRAY. I have no information on the subject as to the way they handle those loans. I have never been an officer in a national bank. I can tell you how the trust companies in New York handle them.

Mr. UNTERMYER. They handle them in the same way, do they not?

Mr. MURRAY. Well, I do not know. I will tell you what information I have.

Mr. UNTERMYER. Yes; I will be glad to have it.

Mr. MURRAY. When I was an officer of a trust company in New York, when a stock broker wanted to make a loan he sent up an

envelope containing the collateral, and the note was made out and signed, and a check, certified or otherwise, handed to him or his representative, then and there.

Mr. UNTERMYER. But that is not the way it is done in the national banks?

Mr. MURRAY. As to how the national banks run them through their books, I have not looked into it.

Mr. UNTERMYER. I am not concerned with the question as to how they run it through their books, but what the committee would like to know is how they make them, on what they certify the check and advance this money; as to whether it is on a plain note of a broker without collateral, or whether it is on a note with collateral.

Mr. MURRAY. I see.

Mr. UNTERMYER. Can you tell me that?

Mr. MURRAY. I can not.

Mr. UNTERMYER. You can not?

Mr. MURRAY. I can not.

Mr. UNTERMYER. Do you know anything about the custom of any of the banks in New York City, Boston, and Chicago, of keeping private ledgers?

Mr. MURRAY. Well, no; I do not. I have found a private book of account or a private ledger in some little bank once in a while that has usually failed.

Mr. UNTERMYER. No; I am speaking of private ledgers of great and important financial institutions.

Mr. MURRAY. I never heard of it, Mr. Untermyer.

Mr. UNTERMYER. I am speaking of ledgers which contain entries of assets which are simply put there as a sort of overflow—that is, out of superabundant conservatism of the bank. Do you know what I mean? Where they want an emergency fund to draw on, there is a diminution in the value of their assets.

Mr. MURRAY. Well, I never heard of them keeping any private ledgers. I believe some banks in the country have some assets, where their property, buildings, and so and so, are worth more than they are carried on their books.

Mr. UNTERMYER. I am not referring to cases where the assets are carried on the books at less than their market value. I am asking about any cases in which they are assets belonging to the bank—

Mr. MURRAY. Not carried on the books at all?

Mr. UNTERMYER. Just a moment. That are carried on a private book and are not taken into account in the valuation of their assets; and, mind you, not from any improper motive, but out of over-conservatism.

Mr. MURRAY. I have no information on that subject. I never heard of it being done in any of the banks in those cities.

Mr. UNTERMYER. Do you know whether it is or not?

Mr. MURRAY. If it is done?

Mr. UNTERMYER. Do you know whether it is or is not done?

Mr. MURRAY. I said I have no information on the subject.

Mr. UNTERMYER. One way or the other?

Mr. MURRAY. One way or the other.

Mr. UNTERMYER. Mr. Murray, have you any of the records relating to any of these security companies that are attached to national banks?

Mr. MURRAY. In the new reports there, Mr. Undermyer, which we put out, I asked one question of the examiners——

Mr. UNDERMYER. You mean in your new list of questions?

Mr. MURRAY. Yes. To please report the name of any affiliated State bank with the national bank, not stating, however, what the affiliation was to be, but leaving it to his judgment; and since that blank went out I have been making a card index of the replies which have come in, so I have in my office, I think, a complete list of all the national banks that have an affiliated State bank—affiliated by way of stock or——

Mr. UNDERMYER. A security company, or known as a bank or investment agency, or anything of that kind?

Mr. MURRAY. Yes.

Mr. UNDERMYER. Have you also the agreements themselves that tie the bank to the security company?

Mr. MURRAY. I made that inquiry this morning as to whether we had in the two cases you asked me about, and I will submit herewith the reply of the chief of the organization division saying that we have no papers on file in either of these two cases, and never had.

Mr. UNDERMYER. You refer to the cases of the National City Bank and the First National?

Mr. MURRAY. Yes.

Mr. UNDERMYER. You know that the subject of the relations of the institutions to one another has been under consideration by the Attorney General and by the President?

Mr. MURRAY. Yes.

Mr. UNDERMYER. And by the Secretary of the Treasury?

Mr. MURRAY. Yes.

Mr. UNDERMYER. You say you have none of those records in your office?

Mr. MURRAY. None in my office.

Mr. UNDERMYER. Will it be convenient for you to come again at 2 o'clock?

Mr. MURRAY. With pleasure.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

Whereupon, at 12.45 o'clock p. m., a recess was taken until 2 o'clock p. m.

AFTER RECESS.

The CHAIRMAN. We will resume the hearing.

Mr. UNDERMYER. Mr. Murray, will you resume the stand, please.

TESTIMONY OF MR. L. O. MURRAY—Continued.

Mr. UNDERMYER. Has the department adopted or is it acting upon any plan or policy with respect to the chartering of new banks where the banking facilities in a district are considered sufficient?

Mr. MURRAY. Well, that is one of the points of inquiry. When an application comes in we make a very extensive investigation along four or five different lines, and I have rejected quite a few applications for charters for cause; not, that I remember, for that particular cause. But if the information that comes to the office shows that the place is already overbanked we write the applicants to show the office that

there is a place for the bank, a field for it, where it will have a chance to attract sufficient business to grow and prosper. If they make that showing, the charter is always granted.

Mr. UNTERMYER. Then, do I correctly deduce from that statement that your department assumes to determine whether the banking facilities in a locality are already sufficient?

Mr. MURRAY. No; we do not assume to determine that, but if the evidence that comes in to us from the various sources shows that the banks already there have not been able to earn a dividend over a period of years, or have had their capital impaired, and instead of paying dividends to stockholders have paid no dividends and have paid in additional money to make their capital stock good, we ask the applicants to make some sort of a showing to the office that they believe their bank will have a place to grow.

Mr. UNTERMYER. But, in effect, is not that really determining the question whether the bank facilities are adequate?

Mr. MURRAY. It is an attempt to determine whether there is a place for the bank.

Mr. UNTERMYER. Can you specify any part of the United States, any district or section, in which over a series of years all the banks in the locality have done business without making a dividend?

Mr. MURRAY. I carry in mind one place where the banks have never paid a dividend, but all of them have had their capital impaired and have had to make an assessment on their shareholders to make it good.

Mr. UNTERMYER. In what section of the country is there any such place as that?

Mr. MURRAY. Well, might I give you that information in private or to the committee?

Mr. UNTERMYER. Yes. I do not mean to have you locate the town or city.

Mr. MURRAY. In the Northwest.

Mr. UNTERMYER. And in that section you have refused to charter another bank?

Mr. MURRAY. No; I think no application was ever filed with me for a bank, although some people wrote and said that they might file one, but they never have filed it.

Mr. UNTERMYER. But is it not the fact that applications have been filed with you in which you have taken the position that the facilities were sufficient?

Mr. MURRAY. I do not recall any particular case, but that is a point that we raise in every case.

Mr. UNTERMYER. The information you get, on which you reach the conclusion that the banking facilities are sufficient, is such information as is furnished you by existing banks?

Mr. MURRAY. No; we send a national-bank examiner there in every such case, sometimes once, sometimes twice, and sometimes three times.

Mr. UNTERMYER. How many such applications have you refused since you have been in business?

Mr. MURRAY. For all causes?

Mr. UNTERMYER. No; in cases in which you have concluded that the facilities were sufficient?

Mr. MURRAY. I do not remember, possibly two or three, maybe half a dozen and maybe none. I do not recall any.

Mr. UNTERMYER. You mean you are not at the moment able to give us the name of anyone?

Mr. MURRAY. No.

Mr. UNTERMYER. But there are some such instances, are there not?

Mr. MURRAY. Yes; I think so.

Mr. UNTERMYER. How many applications have you declined because the original subscribers to the stock were not men of such responsibility as would justify you in allowing the bank to start?

Mr. MURRAY. The original subscribers? I do not recall that I have ever rejected an application because of a stock subscription.

Mr. UNTERMYER. What are the other reasons for which you have rejected applications for charters?

Mr. MURRAY. Well, I have rejected charters because the people applying have had charters of national banks granted to them and let the banks fail.

Mr. UNTERMYER. What do you mean by let them fail?

Mr. MURRAY. I will change that. Or the banks did fail under their management.

Mr. UNTERMYER. You mean those are cases in which all the people making the application have been connected with failed banks?

Mr. MURRAY. No; one or two.

Mr. UNTERMYER. Where one or two men in the entire list of stockholders have been connected as stockholders or directors with the bank that has failed, have you regarded that as a good reason for refusing to grant a charter for a new bank to the other people of whom they formed only a small part?

Mr. MURRAY. No such case has been refused as is stated in your question.

Mr. UNTERMYER. Let us see. In the first place, in how many such cases have you refused charters?

Mr. MURRAY. I can not specify. The applications that have been refused and the reasons are all on file in the organization division and are available to the committee.

Mr. UNTERMYER. Will you furnish the committee with a list of all applications for charters for national banks that have been refused and the reasons for refusal?

Mr. MURRAY. I can give you—the papers in some of them are hundreds of pages of different reports.

Mr. UNTERMYER. No; the committee does not want all the data. All it would like to have would be a list of the banks, or the applications and the locations of the proposed banks and a brief statement of the reason for the refusal of the charter.

Mr. MURRAY. I can furnish that; yes, sir.

Mr. UNTERMYER. Will you furnish that to the committee?

Mr. MURRAY. I will. It may take some time to get it up.

Mr. UNTERMYER. There are not so many, are there?

Mr. MURRAY. Well, there are quite a few; 200 or probably more, over my four or five years.

Mr. UNTERMYER. Two hundred or more charters have been refused?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Some in the large cities?

Mr. MURRAY. I think so.

Mr. UNTERMYER. In the cities of New York, Chicago, St. Louis, Philadelphia?

Mr. MURRAY. I do not recall.

Mr. UNTERMYER. You do not remember?

Mr. MURRAY. I do not remember.

Mr. UNTERMYER. But you will furnish us the list?

Mr. MURRAY. I will furnish you the list; yes, sir.

Mr. UNTERMYER. Will you be good enough to point to the authority in the Comptroller of the Currency to refuse a charter to a national bank on the ground that the facilities in the district are not already sufficient?

Mr. MURRAY. I do not remember that I have ever refused a charter on that special ground, but the law says that a national bank shall not be authorized unless the comptroller approves; and if I do not approve, I need not specially reject, but I just simply do not approve.

Mr. UNTERMYER. The practical effect is the same?

Mr. MURRAY. Yes.

Mr. UNTERMYER. And you say you do not now recall any such instance. Did I understand you to say that there were such instances, but you can not give us any concrete case just now?

Mr. MURRAY. I can not remember, but the files will show exactly the action taken and the reason.

Mr. UNTERMYER. Do you understand, then, that the banking law gives you the power to interfere with competition between banks by the establishment of new banks?

Mr. MURRAY. I think it gives me the power to say whether or not—it gives me the power to issue a charter or not.

Mr. UNTERMYER. But do you take it and do you construe that provision of the banking law as authorizing the Comptroller of the Currency to interfere with competition between banks by declining to approve the establishment of a bank under any circumstances where the bank is organized with the proper capital paid in by responsible people?

Mr. MURRAY. No; I do not. I believe it my duty when I sign a charter for a national bank to have it affirmatively appear in the papers, first, that the applicants are men of good character in the community, and—

Mr. UNTERMYER. And as to their means. Do you think you are empowered to determine upon their means, where they pay in their money for their stock?

Mr. MURRAY. And the application asks for information as to their financial standing and how many shares they are to take. That is on the blank.

Mr. UNTERMYER. But they have to pay for them before they can be chartered, do they not?

Mr. MURRAY. Yes; the law requires that.

Mr. UNTERMYER. You understand that the exercise of a power of that kind might seriously embarrass new competition?

Mr. MURRAY. If the power were not exercised fairly and justly and based on actual facts, I think it might be.

Mr. UNTERMYER. Is it subject to any review anywhere?

Mr. MURRAY. All banks of over \$100,000 have to be approved by the Secretary in addition to the comptroller.

Mr. UNTERMYER. But there is no further review of the refusal of a charter?

Mr. MURRAY. No; except possibly the applicant might have the right of mandamus in court.

Mr. UNTERMYER. You say it is discretionary, do you not?

Mr. MURRAY. I regard it so, but I suppose a public officer is always subject to mandamus.

Mr. UNTERMYER. You would not say he was subject to mandamus to review the exercise of his discretion?

Mr. MURRAY. Such actions have been brought.

Mr. UNTERMYER. But they have not succeeded, have they?

Mr. MURRAY. I do not recall any such, Mr. Untermyer.

Mr. UNTERMYER. You have read the resolution under which this committee is acting, have you not?

Mr. MURRAY. Parts of it.

Mr. UNTERMYER. You understand, do you not, that the committee is instructed to ascertain the facts with respect to the concentration and control of money and credits?

Mr. MURRAY. Yes.

Mr. UNTERMYER. And the use of that control?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Do you see how it is possible for the committee to perform the functions which are delegated to it with respect to the control of the money and credit of banks without knowing about the internal operation of those banks?

Mr. MURRAY. It would seem to me it would be very helpful to know that.

Mr. UNTERMYER. We do not want to stop there, as to whether it would be helpful to the committee, but whether it would be possible for the committee to exercise its functions without knowing as to the internal affairs of those banks. Let me illustrate. For instance, suppose a bank was being used by one of the great financial powers, which was borrowing money; would it not be essential for this committee to know the facts as bearing upon the control of the money and credit of that bank?

Mr. MURRAY. Well, Mr. Untermyer, as to what is essential for the committee to know, the committee is a very much better judge of that than I am.

Mr. UNTERMYER. Yes; but you understand the internal workings of these banks, do you not?

Mr. MURRAY. Somewhat.

Mr. UNTERMYER. You know, do you not, that they are often dominated by men who neither appear on the list of stockholders or directors or officers?

Mr. MURRAY. I do not know that.

Mr. UNTERMYER. Do you know anything about that?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Don't you know that the shares of the bank are sometimes held by other corporations?

Mr. MURRAY. I do; but as to whether or not they dominate the bank I do not know.

Mr. UNTERMYER. Suppose another corporation held the majority of the stock of a national bank; it would be fair to assume it dominated that bank, would it not?

Mr. MURRAY. You might assume it, but I would not say it would be fair to assume that.

Mr. UNTERMYER. You would not?

Mr. MURRAY. I would not assume that.

Mr. UNTERMYER. Would you say the bank was being dominated by the minority as against the majority stock holding?

Mr. MURRAY. I would not assume to say, because I do not know. The management is delegated to its directors and officers.

Mr. UNTERMYER. By the stockholders?

Mr. MURRAY. By the stockholders.

Mr. UNTERMYER. I am instancing a case in which the majority of the stock of a national bank is held by a corporation; would it not be fair to assume that that corporation or the people who dominate that corporation also dominate the bank?

Mr. MURRAY. It is a fair assumption, but whether it would be a true assumption or not is another question.

Mr. UNTERMYER. We are dealing with a fair assumption now, and you agree with me, do you?

Mr. MURRAY. I think it is fair to assume that majority holdings in all corporations have a large part of the say in the management in all corporations.

Mr. UNTERMYER. There are instances, however, in which other elements dominate to a large extent, are there not? Not the mere fact of control of stock.

Mr. MURRAY. Speaking of banks, I know there are many banks where the minority holdings, where a man with a very small minority holding, who is an officer or director, is a more dominating force in the management than are the majority holders.

Mr. UNTERMYER. Where he is a successful man?

Mr. MURRAY. And the management is practically delegated to him.

Mr. UNTERMYER. Is it not also true in the great centers that the bank is dominated largely by the people who can make it successful through giving it large deposits?

Mr. MURRAY. I do not know as to that.

Mr. UNTERMYER. And aiding it in that way.

Mr. MURRAY. I do not know as to that.

Mr. UNTERMYER. Do you know what the situation is in that respect as to New York?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You are not familiar with it?

Mr. MURRAY. I have never read the stockholding list of any bank in the city of New York nor in any other city.

Mr. UNTERMYER. You know, do you not, that the stock voting list is not always a criterion of the stock ownership.

Mr. MURRAY. The law requires a list of stockholders to be filed in my office, and it is filed as a matter of fact, and never examined by me.

Mr. UNTERMYER. I am going beyond the mere list, and I am inquiring for your knowledge of financial affairs as affecting national banks, based on your experience. Now, judged by that standard, do you or not know whether great banking institutions and their

affairs are dominated by the men who contribute to their success, through their great influence and their ability to direct large deposits, rather than through their stockholders?

Mr. MURRAY. I have no information on that.

Mr. UNTERMYER. Your department has not furnished the committee with any facilities for ascertaining who are the large borrowers in the great banks in reserve cities—borrowers of over \$1,000,000—has it?

Mr. MURRAY. It has not; no, sir.

Mr. UNTERMYER. The request has been made, has it not?

Mr. MURRAY. The request has been made.

Mr. UNTERMYER. What action has been taken on it?

Mr. MURRAY. I have ascertained that there are 13 banks in the system which can make a loan of a million dollars or more—that is, 10 per cent of their capital and surplus; but I am not authorized by either the Secretary or the President to furnish the committee with that information, and until I am so authorized I would not furnish it.

Mr. UNTERMYER. You see the embarrassment in which that places the committee in the performance of its functions, do you not?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You realize no embarrassment?

Mr. MURRAY. I do not.

Mr. UNTERMYER. Let us assume that all of those 13 banks, being the greatest banks in the country, are lending their funds to a small group of men, who are using them to control great financial operations, don't you see how that would be important for this committee to know?

Mr. MURRAY. I see how it might be important; but you asked me if I saw how the committee was being embarrassed, and I said I did not. That is a different question.

Mr. UNTERMYER. But don't you see how that embarrasses the committee in the performance of the function upon which it is to report?

Mr. MURRAY. No; I do not; because, if you will pardon me, you can get the information by summoning the officers of those 13 banks here.

Mr. UNTERMYER. Don't you understand that they take the same position that you do?

Mr. MURRAY. I do not know what position they take.

Mr. UNTERMYER. You take the position, do you not, that the power of visitation is lodged exclusively in the Comptroller of the Currency?

Mr. MURRAY. I have not taken any position in the matter. I am acting under the direction of the President and Secretary.

Mr. UNTERMYER. Acting under that direction, which I understand to be correct, you take that position?

Mr. MURRAY. I will furnish the information if I am directed to, and will not, of course, furnish it if I am not directed to.

Mr. UNTERMYER. You understand that I am not implying that in those 13 banks that situation exists; I am simply putting that suppositious case. You understand me in that respect, do you not?

Mr. MURRAY. I had drawn no inference from your question at all.

Mr. UNTERMYER. If the power of visitation over national banks rests exclusively in the Comptroller of the Currency it follows, does

it not, that the Comptroller of the Currency is the only official of the Government who is not subject to the investigation by Congress?

Mr. MURRAY. I believe everybody is subject to investigation by Congress.

Mr. UNTERMYER. You understand I do not mean this question offensively at all, but how would it be possible for Congress, or either House of Congress, to determine whether the Comptroller of the Currency was performing his duty with respect to national banks if Congress could not find out what he was doing with respect to the national banks and what loans he was permitting, and what use he was permitting to be made of the banks?

Mr. MURRAY. I have never heard the question even debated that Congress could not make any investigation of any executive department or any officer it saw fit.

Mr. UNTERMYER. If Congress undertook to find out what the Comptroller of the Currency was doing with respect to allowing the banks to be used, it could not get the information as to those loans, could it?

Mr. MURRAY. Oh, I think so.

Mr. UNTERMYER. Then, why do you not give it to us now?

Mr. MURRAY. That is a question for you to ask the Attorney General and not me. He has rendered an opinion on that subject, I believe.

Mr. UNTERMYER. But you do not know why?

Mr. MURRAY. I do not know why. I have not read his opinion.

Mr. UNTERMYER. You only know the fact that we can not get the information?

Mr. MURRAY. No. I do not know the fact that you can not get the information.

Mr. UNTERMYER. We can not get it from you?

Mr. MURRAY. You can not get it from me unless I am directed to give it to you.

Mr. UNTERMYER. Yes, I understand. How many banks are there that have the right to loan \$500,000 and over in the great reserve cities?

Mr. MURRAY. Well, I do not know. That would be a capital and surplus combined of \$5,000,000. I would have to make a list. My estimate offhand would be under 50, possibly between 40 and 50. I do not carry in mind all the banks that have a combined capital and surplus of that amount.

Mr. UNTERMYER. You understand our inquiry would relate to any single transaction or series of transactions of \$1,000,000, even though divided up into two or three loans in different names, but for the same interest; that would take in 40 or 50 banks, would it not?

Mr. MURRAY. You are speaking of the banks that can loan a million?

Mr. UNTERMYER. Yes.

Mr. MURRAY. We made up a list of the banks that could make a loan of a million to any one person, firm, or corporation, and I think that totals about 13.

Mr. UNTERMYER. Suppose the million were loaned to three different parties of the same firm, but in their individual names; that would be a loan of \$333,000 each?

Mr. MURRAY. Yes.

Mr. UNTERMYER. That would take in about 100 banks in the United States?

Mr. MURRAY. I could not say offhand.

Mr. UNTERMYER. You know that when banks have failed, that has been frequently found to be the condition?

Mr. MURRAY. Oh, yes, indeed.

Mr. UNTERMYER. That they divided the loans up into different names, but for the same interest?

Mr. MURRAY. Much to our sorrow; yes, sir; and much more so, to the sorrow of the depositors.

Mr. UNTERMYER. Does your department regard itself as charged with any duty with respect to the personnel of the directors of a bank?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. None whatever?

Mr. MURRAY. Except that they are men of good repute in the community. We try to find that out.

Mr. UNTERMYER. You do not regard yourselves as under any duty to report on the absence of competitive conditions between pretended or potential competitors in the city, do you?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. You are familiar with this subject of identity of directors in potentially competing banks, are you not?

Mr. MURRAY. I do know that directors in national banks are sometimes directors in more banks than one.

Mr. UNTERMYER. In the same locality?

Mr. MURRAY. In the same locality.

Mr. UNTERMYER. And in competing banks?

Mr. MURRAY. Well, in different banks; but whether they compete or not, I do not know.

Mr. UNTERMYER. In potentially competing banks?

Mr. MURRAY. In potentially competing banks.

Mr. UNTERMYER. You know that is a very common occurrence?

Mr. MURRAY. No; it is not common.

Mr. UNTERMYER. Is it not common in New York City?

Mr. MURRAY. There are some who are—

Mr. UNTERMYER. Have you ever seen a list of the interlocking directors of New York City banks?

Mr. MURRAY. I have never examined it. We have a list of directors of all national banks on file, but I have never made a study of them or a comparison of them.

Mr. UNTERMYER. Have you taken up this subject of the attachment of so-called security companies and national banks?

Mr. MURRAY. No, sir; except that I have a list of them in my office.

Mr. UNTERMYER. I think you furnished such a list to me, did you not?

Mr. MURRAY. Mr. Quinn tells me that it was furnished to you in December. I did not know that we had given it to you before.

Mr. UNTERMYER. That is a list of the banks with arrangements similar to those of the National City Bank to the First National Bank?

Mr. MURRAY. Yes.

Mr. UNTERMYER. And it is confined to national banks with a capital of upward of \$1,000,000?

Mr. MURRAY. Yes.

Mr. UNTERMYER. I would like that list to go into the record.

The list referred to was thereupon marked Exhibit No. 193, January 8, 1913, and is as follows:

EXHIBIT No. 193, JANUARY 8, 1913.

A list of the national banks that have in connection with them a State bank or security company, similar to the arrangement between the First National Bank and the First Security Co., and between the City National Bank and the City Security Co., and in which the shares of the State bank or security company are only salable or purchasable with the shares of the national banks, this list being confined to national banks with a capital of upwards of \$1,000,000. This list is as nearly correct as can be made from the records of the office, there being no provision in law requiring banks to render reports to this office covering this point.

	Capital.
First National Bank of New York.....	\$10,000,000
National City Bank of New York.....	25,000,000
First National Bank of Chicago, Ill.....	10,000,000
Continental and Commercial National Bank of Chicago, Ill.....	21,500,000
First National Bank of Milwaukee, Wis.....	3,000,000
North Western National Bank of Minneapolis, Minn.....	3,000,000
First National Bank of San Francisco, Cal.....	3,000,000
Mercantile National Bank of San Francisco, Cal.....	2,000,000
First National Bank of Los Angeles, Cal.....	1,500,000
Grand Rapids National City Bank, Grand Rapids, Mich.....	1,000,000
Iowa National Bank, Des Moines, Iowa.....	1,000,000
Nixon National Bank, Reno, Nev.....	1,000,000

Mr. UNTERMYER. It is a very common occurrence, is it not, for national banks to have organized as an adjunct to the bank, one of these so-called security companies?

Mr. MURRAY. No, sir; it is not common at all.

Mr. UNTERMYER. You said there are 200 of them, did you not?

Mr. MURRAY. No; I said there are several hundred that had affiliations, but the affiliations are of different characters. Some of them are through the identity of stockholders, some through the identity of directors, some in the identity of officers, and different forms of affiliations. I have a complete list of all concerns that are affiliated in any way—in the ways that I have stated and in others, which I do not think of now—in my office.

Mr. UNTERMYER. How many of them are so tied together that a person can not be a stockholder of the national bank without being a stockholder owning the same proportion in the security company, and can not buy or sell stock in one without buying or selling the same proportion of stock in the other?

Mr. MURRAY. I do not know, officially, but I do carry in mind half a dozen of such institutions. I should say 10 or 12 in the United States, that I think of; maybe more.

Mr. UNTERMYER. There are that many that you have in mind at the moment?

Mr. MURRAY. Yes.

Mr. UNTERMYER. What is the purpose of these security companies organized in that way, with the same boards of directors, the same stockholders and the agreements so that the stock must be bought or sold together?

Mr. MURRAY. The Security companies are corporations of the different States with which I have nothing to do and about which I can give you no particular information. They are not under my jurisdiction in any way, shape, or form, and I am unable to give you any official information about them, as to what they do, what their character empowers them to do, or what their securities are, or how they are managed.

Mr. UNTERMYER. Is it not a fact that among the important things they do is to borrow from the banks with which they are affiliated?

Mr. MURRAY. I do not know from whom they ever borrow a dollar, or whether or not they ever do borrow a dollar.

Mr. UNTERMYER. You do not know as to that, one way or the other?

Mr. MURRAY. I do not.

Mr. UNTERMYER. Do you know whether it is the province of those security companies to speculate in securities and borrow the money with which to do it through the banks with which they are affiliated?

Mr. MURRAY. I do not know what they do.

Mr. UNTERMYER. But when you find a loan in one of these national banks—if you find one from one of the security companies—does not the examiner investigate as to the relations of the company?

Mr. MURRAY. He passes on whether the loan is good or not. If the loan is bad, he orders it out of the bank. If it is good, he passes it.

Mr. UNTERMYER. In order to pass on whether the loan is good or not, he must examine into the security company, must he not?

Mr. MURRAY. He might not have to do that. He might check it up on the collateral.

Mr. UNTERMYER. But suppose it is a loan without collateral?

Mr. MURRAY. I do not know what he would do then. He would either know the borrower or would find out about him.

Mr. UNTERMYER. Would you consider it proper to pass loans of that character, made by a national bank to a corporation having the identical stockholders, the identical officers, the identical directors, tied together in that way with the bank?

Mr. MURRAY. Certainly; if it was a good loan.

Mr. UNTERMYER. It is like a man borrowing from himself, is it not?

Mr. MURRAY. I do not know about that; but you asked me about the loan.

Mr. UNTERMYER. Is it not the same thing?

Mr. MURRAY. No.

Mr. UNTERMYER. Why not? It is the identity of ownership, the identity of interest, the identity of management. Is not that the same thing as a man borrowing from himself?

Mr. MURRAY. These security companies are corporations organized under the laws of the different States.

Mr. UNTERMYER. Yes.

Mr. MURRAY. They are organized in accordance with a statute of that State. They are officered and directed by men who are elected by the stockholders of those concerns. They are entirely distinct, absolutely, from the national bank. The national bank, as such, as a corporation, is not interested as a corporation, in them at all. The

line of cleavage is clear and distinct. It is not a national-bank matter, so far as the comptroller is concerned, at all.

Mr. UNTERMYER. Then you would justify this, would you?

Mr. MURRAY. I am not justifying it or criticizing it, but I am stating what I understand to be a fact.

Mr. UNTERMYER. Would you justify such a loan?

Mr. MURRAY. I am not justifying and not criticizing. I do not care to criticize a State corporation in any way, shape, or form. I do not think it is within my province.

Mr. UNTERMYER. We are not discussing a State corporation, and it has nothing to do with a State corporation. We are discussing the following proposition, and my inquiry is addressed to that: As a bank examiner you find in a national bank a loan to a security company?

Mr. MURRAY. Exactly.

Mr. UNTERMYER. Do you not consider yourself under any duty to inquire as to that borrower, just as if it was an individual?

Mr. MURRAY. Every note in a national bank comes under the scrutiny of the examiner.

Mr. UNTERMYER. Do you not consider yourself under a duty to investigate as to that borrower?

Mr. MURRAY. Every borrower is investigated.

Mr. UNTERMYER. Then that borrower is included, is he not?

Mr. MURRAY. Yes; that borrower is included.

Mr. UNTERMYER. If you find that a borrower is composed of the same stockholders as the bank, owned in the same proportion, with the same officers, with the same directors, and the same interests, do you not think you have something to do with the question of that State institution?

Mr. MURRAY. I have nothing to do with any State institution.

Mr. UNTERMYER. Do you not think you have something to do with the question of determining the relation of the national bank to that State institution?

Mr. MURRAY. I have the duty of determining if that loan is good. If that loan is good, the bank examiner can not criticize it, unless he criticizes it dishonestly and unfairly. If it is bad, it is his duty to report it as bad; and if there is a loss on it, it is my duty to order that loan written off. Further than that I have no jurisdiction, nor has the bank examiner.

Mr. UNTERMYER. Let us see about that.

Mr. MURRAY. That is, as I understand my duty.

Mr. UNTERMYER. Suppose you went into a national bank with nine directors, and you found that each one of the nine directors was borrowing half a million dollars from the bank.

Mr. MURRAY. Yes.

Mr. UNTERMYER. And they were all good men, but together they were taking about half of the resources of the bank.

Mr. MURRAY. Yes.

Mr. UNTERMYER. You would object to that, would you not?

Mr. MURRAY. Why? How could I?

Mr. UNTERMYER. I say, would you?

Mr. MURRAY. I am asking, first, How could I object to it?

Mr. UNTERMYER. Would you not object to those loans being carried in the bank?

Mr. MURRAY. I certainly would not, if they were made within the statutory limit of 10 per cent of the capital and surplus and the loans were made to an individual. If they were legal loans, I certainly think that would be an exercise of my power in a dishonest way, if I objected to a legal loan that was good.

Mr. UNTERMYER. You have a discretion, have you not?

Mr. MURRAY. I have no discretion.

Mr. UNTERMYER. So that if you found that the directors of a national bank were within the legal limit, together borrowing 75 per cent of all the resources of the bank, would you not think you would have any power to object to it?

Mr. MURRAY. The law states what a man may borrow.

Mr. UNTERMYER. You would have no power to object if they were within the legal limit?

Mr. MURRAY. And the loan was good?

Mr. UNTERMYER. And the loan was good.

Mr. MURRAY. No, sir; not under the banking act as it is now; not the slightest.

Mr. UNTERMYER. You do not think that is a very healthful condition, do you?

Mr. MURRAY. That is another question.

Mr. UNTERMYER. That is the reason I put it. If it were the same question, I should not put it again.

Mr. MURRAY. I do not believe in the concentration of loans, either in individuals or corporations. I believe in the widest distribution of loans.

Mr. UNTERMYER. The situation I have just suggested to you is: Is that a healthful condition?

Mr. MURRAY. It might be a healthful condition for the bank. The loans might be absolutely good, and probably would be.

Mr. UNTERMYER. And even if they were good, do you think it is a healthful condition that would permit the directors around the board to borrow 75 per cent of the deposits of the bank?

Mr. MURRAY. The question as to what is a healthful condition is a pretty broad term.

Mr. UNTERMYER. Do you think it is a condition that should be permitted to continue under the law?

Mr. MURRAY. The law of any country that I have ever read about, as to its bank act, has not attempted to say how widely the loans of the bank should be distributed.

Mr. UNTERMYER. Do you not think you might answer my question instead of putting another proposition, Mr. Murray?

Mr. MURRAY. I can not answer your question intelligently. I can not give an answer that would throw any light on the subject.

Mr. UNTERMYER. In your judgment, as the head of this department—and I am asking your opinion as to the existing conditions—can you not tell us whether the law should be amended so as to prevent the directors from borrowing, say, 75 per cent of all the resources of the bank?

Mr. MURRAY. Now, I will answer that question. If I were managing a bank myself—and I am speaking now of myself as an individual—I would distribute my loans as widely as I could. I do not think I would concentrate them in any such fashion as you have described; but the loans under the proposition you have put to me are

legal loans, under the present banking act, and I could not object to them as comptroller.

Mr. UNTERMYER. But I am asking your opinion as to the possibility of changing that law.

Mr. MURRAY. I would not care to express any opinion on that.

Mr. UNTERMYER. Is not that a part of your duty as comptroller to express your views to Congress as to the advisability of changes in the laws affecting national banks?

Mr. MURRAY. Under the statute, in my annual report; yes.

Mr. UNTERMYER. Can you not give us the benefit of your views on that subject?

Mr. MURRAY. I do not care to express any opinion on the question you put to me, because I have not any definite information on the subject.

Mr. UNTERMYER. But you have an opinion, have you not, as to the wisdom of allowing the directors of a corporation to borrow the bulk of its assets?

Mr. MURRAY. They do it, sometimes, to the detriment of the bank.

Mr. UNTERMYER. Do you not think that should be stopped by law?

Mr. MURRAY. I am not prepared to express an opinion as to whether a director's power to borrow should be entirely wiped out, or whether it should be limited. That is a pretty big question.

Mr. UNTERMYER. You are not even prepared to express an opinion as to whether there should be any limit upon their power?

Mr. MURRAY. I am. I think they should be limited within reasonable bounds.

Mr. UNTERMEYER. Within what bounds, other than the existing limit, that no one person shall have over 10 per cent of the capital and surplus of the bank?

Mr. MURRY. Yes; but that does not prevent the corporation's control by a man who dominates the board of directors and their all borrowing the same amount; and if one goes down, they all go down, and your bank is ruined.

Mr. UNTERMEYER. That is one of the vices of the present system, is it not?

Mr. MURRAY. I think so.

Mr. UNTERMYER. And you think it should be corrected, do you not?

Mr. MURRAY. I do. In fact, I have directed the bank examiners this year, when they find any undue concentration of loans in a bank which imperils its solvency to demand one of three things: First, that the books of those corporations where the loans are concentrated be opened to them so that they can see whether the loans are good or bad—

Mr. UNTERMYER. That would apply to a security company, such as I have been speaking of.

Mr. MURRAY. Or, secondly, that the officers give them a sworn statement of the business of the corporations where the loans are concentrated; or, third, that a copy of the independent audit be furnished to the bank examiner.

In other words, if there is a concentration of loans in a national bank that imperils its solvency, I have directed the examiners to make a demand for information as to whether or not those loans were good.

Mr. UNTERMYER. You could not tell whether it would imperil the solvency of the bank until you did make the examination of those corporations, could you?

Mr. MURRAY. Yes; you could tell whether or not the loans were bad or good.

Mr. UNTERMYER. If they were bad?

Mr. MURRAY (continuing). As to whether they were good or bad, you could tell without this information.

Mr. UNTERMYER. Those instructions on your part would apply to one of these security companies loaning through its affiliated banks, would it not?

Mr. MURRAY. If the loans, if bad, were so scattered that they would wipe out the capital and surplus or even embarrass the capital, that would apply just the same.

Mr. UNTERMYER. In the course of your investigations into national banks, have you ascertained the extent to which, if any, they become syndicate underwriters?

Mr. MURRAY. That is not a question which our examiners inquire into, nor are they required to do so.

Mr. UNTERMYER. Let us see about that. Suppose a bank has taken a syndicate participation and has had to take its participation, it goes among its assets, does it not?

Mr. MURRAY. Certainly.

Mr. UNTERMYER. That comes within the purview of your examiner, does it not?

Mr. MURRAY. Yes; they pass on all the securities held in the bank.

Mr. UNTERMYER. When a bank is a syndicate participant in a great many syndicates and has to take the securities, that becomes a substantial part of its property, does it not?

Mr. MURRAY. I do not know that it becomes a substantial part. It may be a very small part.

Mr. UNTERMYER. Have you any opinion as to the wisdom of allowing national banks to become syndicate promoters and syndicate underwriters and syndicate participants in financial enterprises?

Mr. MURRAY. They have a right, under the statute, to invest in bonds, and if they subscribe to a syndicate underwriting and agree to take so many bonds of an issue they are within the statute in so doing.

Mr. UNTERMYER. You know they are unrestricted in going into these syndicate promotions?

Mr. MURRAY. There is no law prohibiting them from doing so.

Mr. UNTERMYER. Do you consider that wise?

Mr. MURRAY. I have never seen any evil effects coming from it, so far as I know.

Mr. UNTERMYER. Have you not known banks to go down from being overloaded with syndicate commitments that they had taken?

Mr. MURRAY. I do not recall any.

Mr. UNTERMYER. Do you not know that the Morse banks went down overloaded with these syndicate participations?

Mr. MURRAY. The Morse banks failed before I was comptroller.

Mr. UNTERMYER. They failed in 1907?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. Has there been any big national-bank failure in New York since you came into office?

Mr. MURRAY. None, sir.

Mr. UNTERMYER. Are you familiar with the failures in New York following the 1907 panic?

Mr. MURRAY. Only in a very casual way.

Mr. UNTERMYER. Do you know whether there was any of them that did not come to grief through participation in syndicate under-writing?

Mr. MURRAY. I do not know.

Mr. UNTERMYER. Do you know anything about the Knickerbocker Trust Co. situation?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Have you any opinion, then, as to the wisdom of forbidding national banks from syndicate promotions or under-writings?

Mr. MURRAY. No.

Mr. UNTERMYER. You have no opinion on that subject?

Mr. MURRAY. No. I have not given it any attention.

Mr. UNTERMYER. You have given it no attention?

Mr. MURRAY. No.

Mr. UNTERMYER. Do you not know that it is a very important part of the business of the great banks?

Mr. MURRAY. I think they do a considerable business of that kind, but how much I do not know.

Mr. UNTERMYER. Do you know whether or not they buy or under-write large blocks of securities and then go into the business of selling them or attempting to sell them?

Mr. MURRAY. I know of some banks who maintain a bond department.

Mr. UNTERMYER. You know of some banks that maintain a regular bond department for the sale of bonds that they have bought in large blocks?

Mr. MURRAY. I presume so; or they might have bought them in small blocks.

Mr. UNTERMYER. In your judgment, is it the province of a national bank to keep its assets liquid or invested?

Mr. MURRAY. A bank has many provinces.

Mr. UNTERMYER. Its principal province is the accommodation of merchants and those who seek to borrow money on short time, is it not?

Mr. MURRAY. I think that was the intent of Congress fairly inferred from the national-bank act, in which they refused the power in national banks to invest in real estate. I think the tendency was to make them purely commercial banks.

Mr. UNTERMYER. You know that 25 per cent of the deposits have to be actually liquid and kept put aside as a reserve, do you not?

Mr. MURRAY. No; I do not know that.

Mr. UNTERMYER. I mean in the reserve cities.

Mr. MURRAY. Yes.

Mr. UNTERMYER. I mean in the large reserve cities.

Mr. MURRAY. Oh, yes.

Mr. UNTERMYER. That has to be kept unimpaired.

Mr. MURRAY. That has to be kept in actual cash.

Mr. UNTERMYER. It cannot be invested at all?

Mr. MURRAY. It cannot be invested at all. It is locked in the vaults.

Mr. UNTERMYER. As to the remaining 75 per cent of its assets, you understand that they are supposed to be there subject to borrowing, for the purposes of the commercial and financial community.

Mr. MURRAY. They are there subject to be loaned out as the officers and directors see fit to loan them out. There is no law on the subject as to how they shall invest that.

Mr. UNTERMYER. Let us take, as an illustration, the First National Bank of New York. Do you know what proportion of its depositors' money is actually invested in bonds and stocks not subject to loan to its customers at all?

Mr. MURRAY. I could figure that out by adding up their investments and subtracting it from the total amount of loanable funds.

Mr. UNTERMYER. Have you got that data here?

Mr. MURRAY. I have a list of their securities.

Mr. UNTERMYER. What is the total value of their investment securities?

Mr. MURRAY. I have not footed it.

Mr. UNTERMYER. I am using that particular instance simply by way of convenience and for illustration, and not as pointing to that one bank, you understand.

Mr. MURRAY. Yes.

Mr. UNTERMYER. Do you know whether or not, deducting its required cash reserve, 75 or 80 per cent of its total deposits are invested in bonds and stocks, and therefore not loanable at all?

Mr. MURRAY. I know a bank where every dollar it has got is invested in bonds. It has not got a note in bank. It is not in New York, however.

Mr. UNTERMYER. You mean it has no loanable potentiality at all?

Mr. MURRAY. Not a dollar loaned. Every dollar is invested in securities.

Mr. UNTERMYER. And that is a national bank?

Mr. MURRAY. That is a national bank.

Mr. UNTERMYER. You mean it has all its depositors' money invested?

Mr. MURRAY. It has all its depositors' money invested in bonds.

Mr. UNTERMYER. And you make no complaint of that condition?

Mr. MURRAY. No; how can I? And it is one of the richest banks in the country, too.

Mr. UNTERMYER. What good does it do in the community as a bank?

Mr. MURRAY. Well, as to the good that a national bank may do in a community, that is not in the province of the comptroller to determine.

Mr. UNTERMYER. What purpose does it serve the community as a bank if all of its deposits are actually invested in bonds, and none of them are subject to loan?

Mr. MURRAY. That would probably be a question for complaint by the merchants of the community; not for me.

Mr. UNTERMYER. You do not think you have any province there at all?

Mr. MURRAY. I know I have not. I do not think anything about it.

Mr. UNTERMYER. You know the situation in other countries in that respect, do you?

Mr. MURRAY. No, sir.

Mr. UNTERMYER. Do you know the proportion that they are allowed to have actually invested and the proportion that must remain liquid?

Mr. MURRAY. No, sir: I have read the different systems of banks in the different countries, but I do not recall the exact percentage.

Mr. UNTERMYER. I do not mean exactly the proportion that must be kept liquid in those countries, but the proportion that is, in practical operation, kept liquid.

Mr. MURRAY. You use the word "liquid" there. May I suggest this as to that word "liquid": The assets of the bank, where all of its deposits are invested in securities, are more liquid than any other. I presume there is no more liquid bank in the world as that bank can turn those bonds and securities into actual cash in two hours.

Mr. UNTERMYER. But it does not do it?

Mr. MURRAY. But you are speaking of liquidity.

Mr. UNTERMYER. Yes.

Mr. MURRAY. And considering a national bank in normal times, with its securities of a high grade, probably the most liquid thing in the bank is the securities.

Mr. UNTERMYER. Do you not think that a bank should be in such a situation as to meet abnormal times rather than normal?

Mr. MURRAY. We have never devised such a system in this country that we have been able to meet abnormal times. I suppose that is what the Congress will try very shortly to do; to get a banking bill that will meet abnormal times. In normal times there is not much difficulty.

Mr. UNTERMYER. A currency system that still would permit the practices under the operations of the national banking law would not meet that situation, would it?

Mr. MURRAY. The present banking law has not met the situation.

Mr. UNTERMYER. It has not?

Mr. MURRAY. It has not.

Mr. UNTERMYER. I asked you, before recess, concerning your knowledge as to the securities of national banks that are written off from time to time and disappear from the assets, as to where they go and what is done with them. I think you said you did not know, did you not?

Mr. MURRAY. No, sir; I did not say that I did not know.

Mr. UNTERMYER. Where do they go?

Mr. MURRAY. Different banks handle written-off assets in different ways. Sometimes they open an account "charged-off assets," and, as they recover—as they sometimes do—they credit the salvage from the charged-off assets up to profit and loss. I believe they usually carry these charged-off assets under an account called a "suspense account." As they release them they credit them up, and if they do not release them—

Mr. UNTERMYER. They credit them to the suspense account. They do not credit them to the surplus?

Mr. MURRAY. They would, ultimately, have to go to the surplus account, the undivided-profits account, if they came back on the books of the bank at all.

Mr. UNTERMYER. Is it not a fact that they do not come back, but remain in a separate account?

Mr. MURRAY. I do not know that to be a fact.

Mr. UNTERMYER. I think we were discussing the case of Alvord some years ago, who absconded with about \$700,000 of the First National Bank money. You remember that did not affect the surplus of the bank at all?

Mr. MURRAY. I do not believe the surplus account was changed. I was not in office then.

Mr. UNTERMYER. There was some source somewhere, not among the known assets of the bank, from which that could be charged off without affecting the showing of the bank, was there not?

Mr. MURRAY. Evidently.

Mr. UNTERMYER. That is the account in these banks that I was inquiring about, as to how they were kept.

Mr. MURRAY. Well, I can not tell you that, Mr. Untermyer. I might elaborate just a little.

Mr. UNTERMYER. Yes; if you will.

Mr. MURRAY. Some of the banks, when they buy bonds at a premium, write off all the premium at once and carry them at par.

Mr. UNTERMYER. And take a loss on them?

Mr. MURRAY. No; they charge down the premium account, so that all bonds appear on their books as at par, although their market value may be 110, 115, and so on. They charge all the premium off at once.

Mr. UNTERMYER. Then they put them on their books at a loss, do they not?

Mr. MURRAY. That is the effect of it.

Mr. UNTERMYER. Yes; that is the effect of it.

Mr. MURRAY. If they sell those securities, then, of course, they have a profit on them.

Mr. UNTERMYER. Where does that go?

Mr. MURRAY. That goes to the profit-and-loss account, I suppose.

Mr. UNTERMYER. Where do they charge off the loss?

Mr. MURRAY. They charge that to the surplus account as the bonds come in; as the securities are taken in and entered on the books.

Mr. UNTERMYER. I do not see that that affects the particular account we are discussing.

Mr. MURRAY. No.

Mr. UNTERMYER. That is an entirely different transaction?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Is there anything you wanted to say as to the account we were discussing?

Mr. MURRAY. Nothing; I know nothing about that.

Mr. UNTERMYER. Are you familiar with the affairs of the Riggs Bank here in Washington?

Mr. MURRAY. I have looked over their reports, as I look over the reports of every bank in the country.

Mr. UNTERMYER. Do you know the extent of identity of directors between the Riggs Bank and the National City Bank of New York?

Mr. MURRAY. I think there is an identity of one or two, but I do not know the names, unless it is Mr. Vanderlip.

Mr. UNTERMYER. There are three. are there not?

Mr. MURRAY. I do not recall.

Mr. UNTERMYER. Do you know whether the National City Security Co. owns a part of the Riggs Bank?

Mr. MURRAY. No, sir; I do not know. I do not know anything about the ownership.

Mr. UNTERMYER. You do not know the co-relation between those two institutions?

Mr. MURRAY. I have no information on that; no, sir.

Mr. UNTERMYER. I would like to ask you a few questions, Mr. Murray, with respect to the reality of the reserves of the banks that are not in the reserve cities. Am I correct in saying that the required reserve is 15 per cent?

Mr. MURRAY. In the country banks; yes, sir.

Mr. UNTERMYER. That is 15 per cent of the deposits; and of that 15 per cent, two-fifths must be kept in the vault of the bank and three-fifths may be kept in reserve cities? Is that right?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. So that 6 per cent of the deposits must be kept in cash in the vaults, and 9 per cent may be kept in reserve cities?

Mr. MURRAY. That is right.

Mr. UNTERMYER. These banks in reserve cities that are supposed to have 9 per cent of the total deposits of the country banks are allowed to loan three-quarters of that out again, are they not?

Mr. MURRAY. Yes, sir.

Mr. UNTERMYER. So that, of the 9 per cent, 7 per cent they are permitted to loan, and it is not a reserve at all; it is not a real cash available reserve, is it?

Mr. MURRAY. Well, it is money which they hold for the other bank, which they have loaned out.

Mr. UNTERMYER. Which they have loaned, and the country bank might just as well loan it itself?

Mr. MURRAY. It might not have loaned it as wisely, but it might loan it.

Mr. UNTERMYER. For all practical purposes, they might as well loan it themselves?

Mr. MURRAY. Yes.

Mr. UNTERMYER. Is not the fact, then, Mr. Murray, that that is not a 15 per cent cash reserve at all, but it is about an 8 per cent cash reserve; is not that true?

Mr. MURRAY. Oh, it is not a cash reserve, unquestionably.

Mr. UNTERMYER. Have you familiarized yourself at all with the currents of money back and forth in the country between New York and the rest of the country?

Mr. MURRAY. Many charts of the seasonal variations of money have been prepared. I think we have prepared some in our office.

Mr. UNTERMYER. Have you studied the causes and effects bearing on that situation?

Mr. MURRAY. In a general way, I know why money flows back and forth, possibly.

Mr. UNTERMYER. What attracts money to New York from the banks throughout the country?

Mr. MURRAY. Two per cent on daily balances, I think.

Mr. UNTERMYER. That is not all, is it?

Mr. MURRAY. That is one reason. Another reason is the great commercial transactions between the country and the cities. The banks have to have money in New York to meet their needs there. They also keep balances in New York so that their collections may be

made by the banks where they keep their balances. A great deal of money is carried in different cities and in banks in order that the banks may carry on their business; a good deal of money in New York, I think, flows there when money is idle in the country, because of the interest paid on the balances, possibly.

Mr. UNTERMYER. There is a great deal of money that comes from the country banks to New York, is there not, that does not go in the accounts of the New York banks, but goes directly to be loaned for the account of the country bank?

Mr. MURRAY. I think a great deal of that is done. I do not know how much?

Mr. UNTERMYER. The proof shows that on November 1 34 banks in New York had four hundred odd million dollars of such money loaned on stock-exchange collateral.

Mr. MURRAY. That they did not take up in their deposit account at all?

Mr. UNTERMYER. Independent of what was in their deposit account.

Mr. MURRAY. And loaned it as agents of the country banks?

Mr. UNTERMYER. Yes. Is it not a fact that that money is attracted to New York simply by reason of the fact that New York City is the only money market of the country where money is bid for on the stock exchange?

Mr. MURRAY. I would not want to say why it goes there, because I do not know the motives of the banks in the country sending their balances there.

Mr. UNTERMYER. Does it not go there because it is attracted by the rate that is being bid for it?

Mr. MURRAY. I presume if the banks of the country could get as good a rate at home and as good security they would loan it at home.

Mr. UNTERMYER. Have you considered the question of cumulative voting, as applied to the control of national banks?

Mr. MURRAY. Cumulative voting is prohibited by the banking act.

Mr. UNTERMYER. Yes. Well, do you think it ought to be?

Mr. MURRAY. I have never given it any particular consideration.

Mr. UNTERMYER. Suppose you think of it now. You know the purpose of cumulative voting, do you not? It is to give minority representation?

Mr. MURRAY. Yes, sir; I suppose so.

Mr. UNTERMYER. Do you not think that minority representation should be accorded in national banks?

Mr. MURRAY. I think they ought to have just the same protection as majority holders.

Mr. UNTERMYER. Then you mean that you think minority representation should be provided?

Mr. MURRAY. I certainly do.

Mr. UNTERMYER. In that respect, do you not think that the law should be changed so as to permit cumulative voting?

Mr. MURRAY. If cumulative voting would give the minority stockholders an equal voice, according to their holdings in the bank, with anybody else, I would be for any system that would give that.

Mr. UNTERMYER. That is what it does, Mr. Murray.

Mr. MURRAY. Then I should be for it.

Mr. UNTERMYER. Cumulative voting would operate about as follows: If there are seven directors in a bank to be elected, each one-seventh of the stock would elect one director. Would you favor such a system?

Mr. MURRAY. I certainly would favor any system that would give a minority holder, no matter how small he is, the fullest protection and a voice in the management of the bank through the proper director elected by him or by other minority holders.

Mr. UNTERMYER. Are you aware that there are partnerships that do the business of private banks, take deposits and pay them against check, in the same way that national banks do?

Mr. MURRAY. I have not any information on that subject; no, sir.

Mr. UNTERMYER. Did you not know that J. P. Morgan & Co. was one of such private banks?

Mr. MURRAY. Well, I suspected it, but I did not know it until I read his testimony the other day.

Mr. UNTERMYER. Did you know that they had on November 1 \$163,000,000 of deposits as a private bank?

Mr. MURRAY. I did not know whether they had a dollar or not.

Mr. UNTERMYER. I think that is all, Mr. Murray, unless there is something you would like to say.

Mr. MURRAY. Nothing except to thank you very much for your courtesy.

The CHAIRMAN. We are much obliged to you, Mr. Murray. The committee will be at recess until to-morrow at 11 o'clock, when the taking of testimony will be resumed.

Whereupon, at 3.20 p. m., the committee adjourned until to-morrow morning, Thursday, January 9, 1913, at 11 o'clock a. m.